

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of AUGUSTA

Local Law No. 1 of the year 2012

A local law Moratorium Law on Hydraulic Fracturing and/or Hydrofracking
(Insert Title)
of the Town of Augusta

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of AUGUSTA as follows:

SEE ATTACHED

FILED 2-28-2012 w/ Dept. of State

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2012 of the (County)(City)(Town)(Village) of Augusta was duly passed by the (Name of Legislative Body) Town Board on December 21, 2011, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the (Name of Legislative Body) _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted on 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the (Name of Legislative Body) _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the (Name of Legislative Body) _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Jonina M. Furness
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: January 27, 2012

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Oneida

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Richard P. ...
Signature
Attorney for Town of Augusta
Title

County _____
City of _____
Town _____
Village _____

Date: February 1, 2012

LOCAL LAW # 1 of 2012
MORATORIUM LAW ON HYDRAULIC FRACTURING
AND/OR HYDROFRACKING OF THE TOWN OF AUGUSTA

Section 1. TITLE

This law will be known as the Moratorium Law on Hydraulic Fracturing and/or Hydrofracking of the Town of Augusta.

Section 2. LEGISLATIVE INTENT

The Town Board of the Town of Augusta, Oneida County, State of New York, is vested by the State of New York to regulate and control land use within the Town of Augusta and to protect the health, safety and welfare of its residents. The issue of hydrofracking has generated much concern about the safety and reliability of this method to recover and develop natural gas. The Town Board believes that based on these concerns, additional study and examination of necessary land use regulations relating to hydrofracking is warranted. Therefore, the Town Board, through this local law, declares a six month moratorium on any activity or processes associated with hydrofracking or in furtherance of hydrofracking, including the establishment, implementation, place and construction of hydrofracking processes or activities in the Town of Augusta.

The Town Board is well aware of the current review of hydrofracking by the New York State Department of Environmental Conservation (DEC), including an assessment of the various potential environmental impacts of hydrofracking, state regulations currently in place and the potential for additional regulations of hydrofracking at the state level. This moratorium period will allow for the review and determination of the need for additional state regulations which will necessarily impact the role of the Town in making further regulation on a local level.

This moratorium is also intended to allow necessary time for the Town Board to examine whether additional local regulation is necessary, the extent of such regulation, and if such local regulation is necessary, the Town Board may determine the appropriate rules and regulations to ensure comprehensive uniformity, fairness and consistency in such regulations. Further, the Town Board will utilize the moratorium period to further examine the significant environmental issues relating to hydrofracking.

The Town Board recognizes the importance of finding and developing other sources of natural gas for energy resources and believes that natural gas may be a cleaner and more beneficial source of energy than other oil and gas consumption. Natural gas development has existed in New York State since approximately 1821. There are vast amounts of natural gas in reserves of shale deposits and new technology has made it more economical to produce natural gas from shale deposits. There have been studies indicating that natural gas production using the hydrofracking method could be a significant benefit to economic activity.

However, the Town is also concerned with the potential for damage to groundwater quality and quantity, potential for sediment and erosion and the use of naturally occurring radioactive materials. Hydrofracking requires the use of large amounts of water, including the use of surface water (rivers, basins, lakes), private ponds, groundwater, municipal water, waste water and produced water. Further, the use of hydrofracking will create more demand for commercial waste water treatment facilities to dispose of produced water. The Town Board is concerned with the potential for groundwater pollution, affecting many water wells in the town. There may also be further impacts to local roads during the construction and use of any potential well. Lastly, the Town is concerned with the potential environmental impacts on water quality, agricultural land uses, and wetlands.

The Town of Augusta has legitimate goals and aims to protect the community, cultural, historical, recreational and environmental resources with the Town and the Town Board believes that studying this issue is necessary so that hydrofracking operations are regulated to protect the Town's predominant residential and agricultural land use and to protect the environment from potential negative impacts.

The Town of Augusta does hereby find a moratorium of six months duration is necessary and reasonable in order to afford the Town Board an opportunity to refer this issue to the Code Enforcement Officer, Town Planning Board, Town Zoning Board of Appeals and the Town Planning and Zoning Committee for consideration and study and to afford such boards an opportunity to make recommendations to the Town Board regarding appropriate amendments to the Town Code. A moratorium of six months will prevent the establishment of hydrofracking facilities and operations that may be contrary to any land use regulations ultimately adopted thus making the new regulations a nullity. The health, safety and general welfare of the residents will be protected by the adoption of the moratorium pending the issuance of final regulations by the Town of Augusta.

Section 3. DEFINITIONS

HYDRAULIC FRACTURING OR HYDROFRACKING-For purposes of this Local Law, the term "hydraulic fracturing" or "hydrofracking" shall mean the process of recovering and/or developing natural gas trapped behind shale or rock and which generally is accomplished by a gas well that is drilled vertically into the ground and then horizontally from the well head, after which water, sand and/or chemicals are injected into the well breaking and/or fracturing of shale and/or other natural structures under the ground intending to release natural gas from the ground.

PERSON- For the purposes of this local law, the term "person" shall include an individual, society, club, firm, partnership, joint venture, corporation, or the association of persons, and the singular shall include the plural number.

Section 4. SCOPE AND CONTROL

- A. For the period of six months following the effective date of this local law, no new hydrofracking facilities or operations, as defined by this local law, or expansions

beyond existing operations or facilities shall be permitted by any person in the Town of Augusta.

B. During the effective period of this Local Law:

1. The Town Planning Board shall not consider and/or approve any site plan, approve any special use permit or other permit which would have as a result of the establishment, implementation, placement, construction or development of any new hydrofracking facility or operation, including any activity associated therewith or in furtherance of hydrofracking, or the enlargement of any existing hydrofracking facility or operation within the Town.
2. The Town Zoning Board of Appeals shall not consider and/or grant any variance, special use permit or other permit for any use which would result in the establishment, implementation, placement, construction or development of any new hydrofracking facility or operation, including any activity associated therewith or in furtherance of hydrofracking, or the enlargement of any existing hydrofracking facility or operation within the Town.
3. The Codes Enforcement Officer of the Town shall not consider and for issue any building permit or other permit which would result in the establishment, implementation, placement, construction or development of any new hydrofracking facility or operation, including any activity associated therewith or in furtherance of hydrofracking, or the enlargement of any existing hydrofracking facility or operation within the Town.

C. If, within six months, the Town Board adopts a local law relating to hydrofracking, then, in that event the moratorium imposed by this local law shall expire immediately on the date the Town local law relating to hydrofracking takes effect in accordance with Section 27 of the Municipal Home Rule Law.

D. This moratorium may be extended for an additional period of not more than 180 days upon a resolution of the Town Board which determines that it is in the best interest of the Town to extend the subject moratorium.

Section 5. EXCEPTIONS

The lawful use of any premises on the effective date of this local law operated under a permit issued by the Town of Augusta or other appropriate state or federal agency may be continued, provided that such use shall not be enlarged or extended beyond the existing location and operation.

Section 6. VARIANCES

1. The Town Board reserves to itself the power and sole discretion to vary or adapt the strict application of the requirements of this Local Law in the case of unusual hardship or circumstances that would deprive the owner of the reasonable use of the lands involved, provided the application is consistent with the intent of this Local Law.
2. An application for a variance plus 7 copies thereof shall be filed with the Town Clerk, together with a filing fee of \$250.00. The application shall specifically identify the land involved, recite the nature of the proposed use of the land, provide a narrative description of the project and identify the circumstances pursuant to which the variance is sought and the reasons why the variance is claimed. Any costs, including expert consulting fees, incurred by the Town shall be paid by the Applicant immediately upon request or the application may be denied.
3. The Town Board may refer any applications for a variance herein to the Planning Board, the Zoning Board of Appeals, and/or its retaining consultant, for their advice and recommendations, but all decisions on granting or denying such variances shall be made by the Town Board solely, after determining whether or not the requested variance is compatible with the Comprehensive Plan of the Town, the Town Code and any contemplated amendments to the Zoning Law. Unless completely satisfied that the proposed variance is compatible, the Town Board shall deny the application.
4. The Town Board shall conduct a public hearing on any request for a variance within forty-five (45) days of receipt of a completed application; and shall issue its final decision on requests for a variance within thirty (30) days from the public hearing.

Section 7. ENFORCEMENT

This local law shall be enforced by the Code Enforcement Officer of the Town of Augusta, or such other individual(s) as designated by the Town Board, it shall be the duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this local law and to keep all records necessary and appropriate to the office and to file the same in the office of the Town Clerk.

Section 8. VIOLATIONS

Any person violating any of the provisions of this local law shall be guilty of an offense and upon a conviction thereof, be given a civil penalty of no less than \$500.00 and no more than \$1,000.00 per day for this violation. Each day's violation shall constitute a separate and additional violation. An action may be commenced in a court of competent jurisdiction to recover such penalty. In addition thereto, violations of this local law shall be subject to being restrained by injunctive relief.

Section 9. CONFLICT WITH OTHER LAWS

This Local Law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law of the State of New York. During the duration of times that this Law is in effect, it shall take precedence over and shall be considered controlling over contrary laws, ordinances and provisions including, but not limited to, the statutes set forth in the New York Town Law related to zoning and subdivisions.

Section 10. SEVERABILITY

If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 11. EFFECTIVE DATE

This Local Law shall become effective January 15, 2012 or upon filing with the Secretary of State, whichever date shall occur last.



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

March 1, 2012

Sonya M Furness
town Clerk
185 N Main Street
Oriskany Falls NY 13425

RE: Town of Augusta, Local Law 1 2012, filed on February 28, 2012

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.state.ny.us.

Sincerely,
State Records and Law Bureau
(518) 474-2755