

TOWN OF RUSH LOCAL LAW No.1 of 2013

A Local Law to effect the extension of Town of Rush Local Law No.1 of 2012, a Moratorium and Prohibition within the Town of Rush, New York, of Natural Gas and Petroleum Exploration and Extraction Activities, Underground Storage of Natural Gas, and Disposal of Natural Gas or Petroleum Extraction, Exploration and Production Wastes.

BE IT ENACTED by the Town Board of the Town of Rush, Monroe County, New York, as follows:

Section 1. Title

Town of Rush Local Law No 1. of 2013 shall be known as the “Extension of the Moratorium and Prohibition within the Town of Rush, New York, of Natural Gas and Petroleum Exploration and Extraction Activities, Underground Storage of Natural Gas, and Disposal of Natural Gas or Petroleum Extraction, Exploration and Production Wastes.”

Section 2. Authority and Intent

This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Rush under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(i); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Governments §10(1), (6), and (7); Town Law § 64 (17-a), (20-b), and (23); Town Law § 130(5), (6), (7), (8), (11), (14), (15), and (23); Town Law §135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law § 17-1101, §27-0711; and New York State Law, Public Health Law § 228 (2), and (3). This Law is a police power and land use regulation. This Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive “incidental control” of a zoning law and land use law that is concerned with the broad area of land use planning and the physical use of land and property within the Town, including the physical externalities associated with certain land uses, such as negative impacts on roadways and traffic congestion and other deleterious impacts on a community.

Section 3. Incorporation of Town of Rush Local Law No.1 of 2012

The Town of Rush Local Law No.1 of 2012 is annexed hereto and is specifically incorporated herein by reference with Town of Rush Local Law No.1 of 2013.

Section 4. Necessity for Extension of Moratorium and Prohibition

Since the enactment of Town of Rush Local Law No.1 of 2012, the Rush Town Board has made diligent efforts to study the potential effects of the activities addressed in that Local Law, including but not limited to the creation of a Citizens Working Committee on Hydrofracking, which has submitted its January 21, 2013 Report to the Town Board. Despite the work done by the Town Board, additional time is required to study the aforementioned Report and its recommendations, which include substantial amendments to the Rush Zoning Code.

Section 5. Extension of Moratorium and Prohibition

Based upon the foregoing necessity, Town of Rush Local Law No.1 of 2012 is hereby extended for a period of six (6) months.

Section 6. Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

Section 7. Superseding Intent and Effect.

During the time this Local Law is in effect, it is the specific intent of the Town Board, pursuant to Municipal Home Rule Law § 10(1)(ii)(d)(3) and §22, to supercede: (a) any inconsistent provisions set forth in Town Law § 265-a; § 267; § 267-a, § 267-b, § 268; § 274-a, § 274-b; § 276, § 277, § 278, and § 279; (b) any other inconsistent provisions set forth in Article 16 of the Town Law; (c) any inconsistent provisions of the Zoning Code of the Town of Rush; and (d) any inconsistent provisions of any and all other local ordinances, local laws or local resolutions of the Town of Rush.

Section 8. Effective Date.

This Local Law shall take effect immediately upon filing with the New York Department of State.