

**TOWN OF SCIPIO
LOCAL LAW NO. 1 OF 2012**

A Local Law to protect the health, safety and well being of persons and property by imposing a moratorium on natural gas drilling, extraction and supportive activities within the Town of Scipio.

**SECTION 1
STATUTORY AUTHORIZATION AND PURPOSE**

Section 1.1 *Title.* This Local Law shall be known as “A Local Law imposing a moratorium on gas drilling and supportive activities in the Town of Scipio.”

Section 1.2 *Purpose.* It is the purpose of this Local Law to impose a one year moratorium on gas drilling and related activities in the Town of Scipio to protect the health, safety and well being of persons and property of the Town, and to prevent permanent damage to the environment arising from the use of chemicals near the source of supply of drinking water, the volume of water required and the proper disposal of that water, as well as increased traffic on Town roads.

Section 1.3 *Statutory Authorization.* This Local Law has been adopted pursuant to and in conformity with the Municipal Home Rule Law and the New York State Constitution.

Section 1.4 *State Environmental Quality Review Act (SEQRA).* The Town Board has considered the provisions of Article 8 of the Environmental Conservation Law (SEQRA) and the regulations adopted thereunder at 6 NYCRR Part 617 and finds this Local Law to be a Type II Action as defined therein. Therefore, no further review is required under SEQRA.

**SECTION 2
INTERPRETATION AND CONFLICT WITH OTHER LAWS**

Section 2.1 *Supremacy.* This Local Law shall supersede all previous laws adopted for the relating to natural gas drilling, extraction and/or supportive activities in the Town of Scipio.

Section 2.2 *Interpretation.* In their interpretation and application, the provisions of this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted, rules, regulations, ordinances, or local laws, the most restrictive, or that imposing the higher standards, shall govern.

**SECTION 3
DEFINITIONS**

Section 3.1 *Definitions.* As used in this Local Law, the following terms have the following

respective meanings:

- A. Natural gas drilling and extraction shall mean the process of recovering and/or developing natural gas trapped behind shale, rock, or other natural formations and which is generally accomplished by a well that is drilled into the ground after which water, sand and/or chemicals are injected into the well, breaking or fracturing the shale or other natural structures under the ground and intending to release natural gas
- B. Natural gas support activities shall mean and be any one or more of the following: (a) Natural Gas Compression Facility; (b) Natural Gas Processing Facility; (c) Natural Gas and/or Petroleum Extraction, Exploration Or Production Wastes Disposal/Storage Facility.
- C. The terms “Town Board”, “Planning Board” and “Zoning Board of Appeals” shall refer to the appropriate boards established in the Town of Scipio pursuant to the Town Law.
- D. The term “Code Enforcement Officer” shall mean the duly appointed officer in the Town of Scipio charged with the enforcement of the Town’s zoning and related codes.
- E. “Town” means the Town of Scipio.

Section 4 Scope of Moratorium

Section 4.1 *Moratorium.* During the effective period of this Local Law, the Town Board, the Town Planning Board, the Town Zoning Board of Appeals, and the Code Enforcement Officer shall not grant any special use permit, specific use permit, building permit, variance, or approval of any kind which would result in the establishment, implementation, placement or construction of the processes and activities as defined herein, including any activity associated therewith or intending to support such process including the establishment or implementation of such process or activity in the Town of Scipio.

Section 4.2 *Term.* This moratorium shall be in effect for a period of one year from the effective date.

Section 4.3 *Violation.* No person, firm, association, corporation, whether public or private, partnership, or any agent, employee, or contractor therefor or any of his or its agents, employees, or subcontractors shall in any way violate or assist, solicit, request, command or aid in any violation of any of the provisions of this Local Law. Any action to establish, implement, place or construct the processes defined herein, including the establishment, implementation, placement or construction of any activity or facility associated therewith or intended to support such process

shall be deemed a violation of the provisions of this Local Law.

Section 5 Penalties

Section 5.1 *Criminal Penalties.* Any person convicted of violating this Local Law shall be guilty of a violation. Said violation shall be considered a Petty Offense and not a Misdemeanor.

Section 5.2 *Appearance Ticket.* The Code Enforcement Officer or peace officer observing a violation of this Local Law in his presence shall issue and serve an appearance ticket for such violation.

Section 5.3 *Civil Penalty.* Any person convicted of a violation of this Local Law shall be liable for a civil penalty not to exceed One Thousand and 00/100 Dollars (\$1,000.00) for each such violation.

Section 5.4 *Injunctive Relief.* Whenever a person has violated or continues to violate the provisions of this Local Law or permit or order issued hereunder, the Town Board and/or the Code Enforcement Officer, through counsel may petition any court of competent jurisdiction, in the name of the Town, for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains the violation of, or compels the compliance with this Local Law.

Section 5.5 *Attorneys' fees, costs.* The Town shall be entitled to recover from any person found in violation of this Local Law all attorneys' fees and other costs to the Town of ascertaining and remedying violations of this Local Law and enforcing the rights of the Town and penalties hereunder.

SECTION 6 HARDSHIP

Section 6.1 *Hardship.* In the event that any owner of real property affected by this Local Law shall suffer an unnecessary hardship because of the implementation of the letter of this Local Law, then the owner of such property may make a written application to the Town Board for a hardship use variance from strict compliance with this Local Law. Unnecessary hardship shall not mean a mere delay in being able to pursue drilling or extraction activities or to be able to apply for and receive a decision upon any permit or approval of any kind related thereto.

Section 6.2 *Hardship Application.* Applications for a hardship use variance shall be in writing and shall set forth or have attached thereto evidence of the claimed hardship. The Town Board shall schedule a public hearing on any such application within thirty (30) days of its receipt upon at least five (5) days notice by publication in the Town's official newspaper and posting on the Town

Clerk's board. At said public hearing, the property owner and other interested parties shall be heard and given the opportunity to present evidence in connection with the application. The Town Board shall render a decision in writing within thirty (30) days of the public hearing.

Section 6.3 *Minimum Variance.* Any hardship use variance that is granted shall grant only the minimum variance that the Town deems necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Section 6.4 *Compliance With Other Laws.* In the event the Town grants a hardship use variance from the provisions of this Local Law to the applicant, the applicant shall be required to comply with all provisions of the Town's current (as of the effective date of this Local Law) zoning laws and other laws and regulations, together with any amendments to such law or regulations which may be enacted during the term of this Local Law.

SECTION 7 MISCELLANEOUS

Section 7.1 *Separability.* If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances and the Town of Scipio, by its Town Board, hereby declares that it would have enacted this Local Law or the remainder thereof had the invalidity of such provision or application thereof been apparent.

Section 7.2 *Headings.* Section headings are used only for convenience and have no meaning or effect.

Section 7.3 *Repealer.* This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations relative to natural gas drilling, extraction and support activities as defined herein within the Town, and they shall, upon the effectiveness of this Local Law, be null and void.

Section 7.4 *Effective Date.* This Local Law shall become effective upon the filing of same with the Secretary of State.