

Town of Vienna
Local Law No. 4 of 2012

Section 1. Title

This Local Law shall be referred to as the “Local Law imposing moratorium on the activity know as hydraulic fracturing, hydrofracking, or any other similar intensive industrial use, in the Town of Vienna 2012”.

Section 2. Purpose and Intent

The Town of Vienna has legitimate goals and aims to protect the community as well as the Town’s cultural, historical, recreational, and environmental resources. Therefore, the Town Board believes that an extended period study of hydraulic fracturing to mine hydrocarbons is necessary. The period of study will allow the Town Board to consider regulations meant to protect the environment as well as the Town’s residential and agricultural land uses.

Pursuant to the statutory powers vested in the Town of Vienna to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board declares a 12 month moratorium on the process known as hydraulic fracturing, as well as a moratorium on an activity associated therewith or intending to support such process including the establishment, implementation, placement, or construction of such process or activity in the Town of Vienna.

Section 3. Legislative Findings

- A. It is not clear what safeguards are anticipated to be put in place by the NYDEC and/or NY Legislature to protect New York waters, air, soil, flora, fauna, properties and people, nor exactly how long such regulations may take to enact. Accordingly, it is difficult for the Town to determine the type of Town laws that would be necessary to protect the Town.

- B. This Board will use the moratorium period to continue to monitor and review state legislation, legislations of other towns and municipalities relating to this subject and gather information; including possible legislative language for the Town to consider.

- C. At this point it is important to note that there are no applications pending in the Town to conduct hydraulic fracturing or similar uses. Therefore, there does not appear to be any person or party substantially prejudiced by this moratorium. Nonetheless, the Town Board determines that while the review and monitoring of and in consideration of the significant environmental issues surrounding the process and its potential consequences, a moratorium is appropriate and necessary in order to preserve the status quo until new regulations can be adopted.

Section 4. Definitions

- A. The term hydraulic fracturing shall mean the process of recovering and/or developing natural gas trapped in shale or rock and which generally is accomplished by a well drilled vertically into the ground and then horizontally from the well head, after

which water, sand and/or chemicals are injected into the well to fracture shale and/or natural structures under the ground to release natural gas from the ground.

B. The term "Person" when used in this Local Law shall include an individual, society, club, firm, partnership, joint venture, corporation, or association of persons, and the singular shall include the plural number.

Section 5. Scope of Controls

A. During the effective period of this Local Law;

1. The Town shall not grant any permit or any approvals for hydraulic fracturing, including any activity associated therewith or intending to support such process.
2. Hydraulic Fracturing and related processes are hereby prohibited.

Section 6. Term

This moratorium shall be in effect for a period of 12 months from the date of this Local Law.

Section 7. Violations

Any person violating any of the provisions of this Local Law shall be guilty of an offence and upon a conviction thereof, be subject to a civil penalty of no less that \$500.00 and no more that \$1000.00 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 restraint by injunction.

This Local Law will take effect immediately upon filing in the Office of the Secretary of State.

Dated: July 11, 2012

Motion made by: Councilman Keeney

Motion seconded by: Councilman Graham

Voting Record:

Supervisor Mark Helt	<u>Absent</u>
Councilman Walter Keeney	<u>Aye</u>
Councilman Jason C Lamb	<u>Aye</u>
Councilman A. Peter Rich	<u>Aye</u>
Councilman William Graham	<u>Aye</u>

Motion Carried.
(SEAL)

Donna M Clark
Town Clerk