

# 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 Florence

Local Law No. 3 of the year 2011

**A local law** to place a moratorium on the process known as hydraulic fracturing and/or hydrofracking,  
*(Insert Title)*  
as well as a moratorium on any activity associated therewith or intending to support such  
including the establishment, implementation, of such process or activity in  
the Town of Florence.

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

County  City  Town  Village  
*(Select one:)*

of Florence as follows:

SEE ATTACHED

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

Town of Florence  
Local Law 3" 2011

**Section 1. Title**

This Local Law shall be referred to as the "Local Law imposing moratorium on the activity known as hydraulic fracturing and/or hydrofracking in the Town of Florence 2011"

**Section 2. Purpose and Intent**

Florence

The Town of Flo shall 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 hydrofracking is necessary. The period of study will allow the Town Board to consider hydrofracking 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 Florence to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town of Florence declares a \_\_\_\_\_ month moratorium on the process known as hydraulic fracturing and/or hydrofracking, as well as a moratorium on any 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 Florence

**Section 3. Legislative Findings**

- A. Pursuant to its legislative powers the Town of Florence, the Town Board proposes to enact a "Local Law imposing moratorium on the activity known as hydraulic fracturing and/or hydrofracking in the Town of Florence"
- B. The issues which led to the decision have not abated, and the issues have also not ripened to the point that the Town has been able to address or enact appropriate and comprehensive legislation to address this highly controversial issue. The board is mindful that a moratorium of an extended period is not generally advisable, however, not only is the issue hydrofracking unique, the issue as to the manner in which activity should be regulated in the Town of Florence and also the State of New York is an ongoing matter of great concern and controversy throughout the state.
- C. It is not yet clear as to 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 legislation that would be necessary, required or permitted, until well after the State clarifies its position.
- D. This Board is desirous of utilizing this extended moratorium period to continue to monitor and review state legislation, legislations of other towns and municipalities

relating to this subject and gathering the continuing mass of information that is becoming available on this subject; and including possible legislative language for the town as suggested by experts in the field. Particularly, when and if the permit prohibition by the state is lifted, this Board wants to have sufficient additional time to put appropriate legislation in place.

- E. However, the Town is also concerned with the potential for damage to groundwater quality and quantity, the potential for sedimentation and erosion and the method of disposal of naturally occurring radioactive materials. Hydrofracking requires the use of large amounts of water, including the use of surface water (streams, wetlands), 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 which would affect many water wells throughout Marshall. There may also be further impact to local roads during the construction and use of any potential well. Lastly, the Town is concerned with the potentially negative impacts on water quality, agricultural land uses and wetlands.
- F. At this point it is important to note that there are no hydrofracking activities pending in the Town. Therefore, there does not appear to be any person or party substantially prejudiced by this moratorium at this time. Nonetheless, the Town Board determines that while the review and monitoring of and in consideration of the significant environmental issues surrounding the hydrofracking process and its potentially permanent and irreversible consequences, a moratorium on hydrofracking is appropriate and necessary in order to preserve the status quo until new regulations can be adopted.

#### Section 4. Definitions

- A. The terms Hydraulic fracturing and/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 the breaking and/or fracturing of shale and/or natural structures under the ground intending to release natural gas from the ground.
- B. The term "Town" when used in this Local Law shall mean the Town of Florence.
- C. The terms "Town Board", "Planning Board" and "Zoning Board of Appeals" when used in this Local Law shall refer to the appropriate boards established in the Town of

- D. The term "Person" when used in this Local Law 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 5. Scope of Controls

- A. During the effective period of this Local Law:
1. The Town Board of the Town of Florence shall not grant any approvals that would have as the result the establishment, implementation, placement, or construction of the process known as hydraulic fracturing and/or hydrofracking, 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 Florence
  2. The Town Planning Board shall not grant any preliminary or final approval to a site plan, special use permit, specific use permit or other permit that would have as a result the establishment, implementation, placement, or construction of the process known as hydraulic fracturing and/or hydrofracking, 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 Florence.
  3. The Zoning Board of Appeals shall not grant any variances, special use permits, specific use permits or any other permit that would have as a result the establishment, implementation, placement, or construction of the process known as hydraulic fracturing and/or hydrofracking, 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 Florence.
  4. The Codes Enforcement Officer shall not issue any permit that would have as a result the establishment, implementation, placement, or construction of the process known as hydraulic fracturing and/or hydrofracking, 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 Florence
- B. The Town Board of the Town of Florence reserves the right to direct the Codes Enforcement Officer to revoke or rescind any building permits, certificates of occupancy or other permits or certificates issued in violation of this Local Law.

## Section 6. No Consideration of New Applications

No applications for construction affected by this Local Law or for approvals for a site plan, variance, specific use permit, special use permit or other permits shall be considered by any board officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

## **Section 7. Term**

The moratorium imposed by this Local Law shall be in effect for a period of 365 days from the date of this Local Law. This moratorium may be extended for an additional period of not more than 180 days by the Town Board.

## **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 \$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 being restrained by injunctive relief. They will incur any and all Town costs and reasonable attorney fees.

## **Section 9. Penalties**

Any person, firm, corporation or other entity that shall take any action to establish, implement, place, or construct the process known as hydraulic fracturing and/or hydrofracking, including the establishment, implementation, placement, or construction of any activity associated therewith or intending to support such process in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to such penalties.

## **Section 10. Validity**

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

## **Section 11. Effective Date**

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

(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. 3 of 2011 of the ~~(County)(City)~~(Town)(Village) of Florence was duly passed by the Town Board on December 5, 2011, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

~~**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 \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) 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 \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. (Elective Chief Executive Officer\*)

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 \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ 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.)**

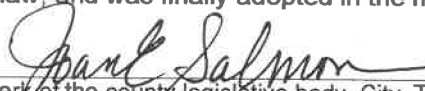
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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 \_\_\_\_\_ above.

  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: December 6, 2011

(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.

  
Signature  
Mark G. Gebo, Town Attorney  
Title

~~County~~  
~~City~~ of Florence  
Town  
~~Village~~

Date: December 6, 2011

**HRABCHAK, GEBO & LANGONE, P.C.**

**ATTORNEYS AT LAW**

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**MARK G. GEBO  
EUGENE J. LANGONE, JR.**

**ROBERT R. HRABCHAK  
(1957-1995)**

December 6, 2011

State Records and Law Bureau  
Department of State  
One Commerce Plaza  
99 Washington Avenue  
Albany, NY 12231

Re: Local Law #3 - 2011 - Town of Florence

Dear Sir/Madam:

Enclosed please find Local Law #3 of 2011 for the Town of Florence for filing. If you have any questions or comments, please advise. Thank you in advance for your cooperation.

Very truly yours,

**HRABCHAK, GEBO & LANGONE, P.C.**



Diane E. Collette  
Legal Assistant

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Enclosures