

Town of Butternuts

Public Information Session draft Moratorium on certain Natural Gas & Petroleum Exploration, Extraction, and Support Activities

Town Hall
Gilbertsville, NY
February 6, 2012

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Overview

What is a public information session?

What is a moratorium, *generally*?

What does *this* proposed moratorium do, *specifically*?

Questions and comments.



Public Information Session

Unlike a 'public hearing,' not a legal requirement

An opportunity for the public to ask questions, and make comments and suggestions, about (in this case) a draft version of a possible local law the Town Board intends to consider



The proposed local law is a moratorium; so what is that, exactly?



Moratorium, generally

May be adopted as a “stop gap or interim measure where it is reasonably designed to temporarily halt development while the municipality considers, inter alia, comprehensive ... [land use] changes.”

Cellular Telephone v. Village of Tarrytown, 624 NYS2d 170 (2nd Dept. 1995)

Limited Duration – no bright line test.



How is this particular draft moratorium structured?

Description of Legal Authority, Legislative (Town Board) Intent, Findings (§ 2)

Definitions of Terms used in the proposed Law (§ 3)

Actual Moratorium: what is covered, and what is NOT (§ 4)

Penalties for Violation; Grandfathering (§§ 5,6)

Hardship Variance Mechanism and Procedure (§§ 8,9)



Findings of fact:

... maintaining the quality of water resources within the Town is critical to protecting the natural environment of the Town, the general health and welfare of Town residents, and the local economy.

Preservation of the Town's irreplaceable scenic sites, air quality and water quality, and priceless and unique character, is of significant value to the inhabitants of the Town and to the tourists who visit here.



Findings of fact:

If one or more of the activities prohibited by [this] Local Law are conducted within the Town, traffic generated thereby could be hazardous or inconvenient to the inhabitants of the Town and could be dangerous to pedestrians (especially children), cyclists, and motorists, and could result in traffic congestion that could delay emergency response times for medical emergencies, fires and accidents.



What does this particular draft moratorium cover?

During the operative period, the following activities (which are 'defined terms') are prohibited:

Natural Gas and/or Petroleum Exploration Activities;

Natural Gas and/or Petroleum Extraction Activities; and

Natural Gas and/or Petroleum Support Activities



What does this particular draft moratorium cover?

Many of the 'Support Activities' are in turn tied to the definition of "Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes":

Any of the following in any form, and ***whether or not*** such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of "industrial waste," "hazardous," or "toxic,"



What does this particular draft moratorium cover?

Natural Gas And/Or Petroleum Support Activities:

- (a) **Natural Gas Compression Facility;**
- (b) **Natural Gas Processing Facility;**
- (c) **Natural Gas ... Wastes Disposal/Storage Facility;**
- (d) **Natural Gas ... [Extraction/Production] Wastes Dump;**
- (e) **Land Application Facility;**
- (f) **Non-Regulated Pipelines;**
- (g) **Underground Injection; or**
- (h) **Underground Natural Gas Storage.**



Would this law prevent me from using gas in my business, or cooking with propane?

No.

“The moratorium ... is not intended, and shall not be construed, to ... prevent or prohibit the transmission of natural gas through utility pipes, [or] lines ... [to] supply natural gas to residents of or buildings located in the Town;”



Would this law prevent me from cooking with propane, or using gas in my business?

“The moratorium ... is not intended, and shall not be construed, to ... prevent or prohibit ... sale, storage, or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, or propane in connection with legal Agriculture, residential, business, commercial, and other uses within the Town ...”



What is the initial term of this proposed moratorium?

Nine (9) months:

“This moratorium shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is nine (9) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has determined that the need for this moratorium and prohibition no longer exists.”



Grandfathering of pre-existing, lawful non-conforming wells

Hardship Variance mechanism

The Town Board shall have the power (after public notice and hearing ...) to consider applications for a Hardship Exemption from the provisions of Section 4 of this Law.



Questions?

*Community Environmental Defense Council, Inc.
is a 501(c)(3) public interest law firm, and is
funded entirely by charitable donations/grants.*

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