

# 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 Philipstown

Local Law No. 6 of the year 2013

A local law Adding a New Chapter 104 to the Philipstown Town Code in Relation to the Sale  
(Insert Title)  
Application and Disposal of Waste Associated with Natural Gas Exploration and  
Extraction Activities.

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

County  City  Town  Village  
(Select one:)

of Philipstown as follows:

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

6. Non-Zoning Hydrofracking Amendment, September 2013

Town of Philipstown

Local Law No.        of the Year 2013

A Local Law Adding a New Chapter 104 to the Philipstown Town Code in Relation to the Sale, Application and Disposal of Waste Associated with Natural Gas Exploration and Extraction Activities.

Be it enacted by the Town Board of the Town of Philipstown as Follows:

SECTION 1. TITLE

This local law shall be known as "A Law Amending the Town Code of the Town of Philipstown to Prohibit the Sale or Use of Natural Gas Wastes from Hydraulic Fracturing."

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Article 2, §10 et seq..

SECTION 3. PURPOSE

This local law is intended to prohibit the sale or use of natural gas waste in the Town of Philipstown.

SECTION 4. ADDITION OF CHAPTER 104 TO THE TOWN CODE

The Town of Philipstown Town Code is hereby amended by inserting a new Chapter 104, as follows:

CHAPTER 104 HYDRAULIC FRACTURING NATURAL GASWASTE

Section 104-1. Definitions.

- A. As used in this Chapter, the term "hydraulic fracturing" shall mean the fracturing of shale formations by man-made fluid-driven techniques for the purpose of stimulating natural gas or other subsurface hydrocarbon production.
- B. As used in this Chapter the term "natural gas extraction activities" shall mean all geologic or geophysical activities related to the exploration for or extraction of natural gas or other subsurface hydrocarbon deposits, including, but not limited to, core and rotary drilling and hydraulic fracturing.
- C. As used in this Chapter the term "natural gas waste" shall mean any waste which is generated as a result of natural gas extraction activities, which may consist of water,

chemical additives, or naturally occurring radioactive materials ("NORMs") and heavy metals. Natural gas waste includes, but is not limited to, leachate from solid wastes associated with natural gas extraction activities.

- D. As used in this Chapter, except in Section 104-6, the term "application" shall mean the physical act of placing or spreading natural gas waste.

#### Section 104-2. Prohibitions.

- A. The introduction of natural gas waste into any wastewater treatment facility within the Town of Philipstown which is either privately operated or operated by the Town of Philipstown is prohibited.
- B. The sale of natural gas waste within the Town of Philipstown is prohibited.
- C. The application of natural gas waste on any Town road, other Town-owned property, property owned by a school district, or privately owned real property located within the Town of Philipstown is prohibited.

#### Section 104-3. Provision to be Included in Bids and Contracts related to the Construction or Maintenance of Town Roads.

- A. All bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain a Town road or other Town facility shall include a provision stating that no materials containing natural gas waste shall be provided to the Town.
- B. All bids and contracts related to the retention of services to construct or maintain a Town road shall include a provision stating that no materials containing natural gas waste shall be utilized in providing such a service.

#### Section 104-4. Duty of Employees to be Familiar with this Chapter .

The Town Supervisor or, at the Town Supervisor's option, any Department Head appointed by the Town Supervisor, is authorized to develop policies to ensure Town employees are familiar with the provisions of this Chapter and take such steps as are directed by the Town Supervisor or such Department Head to ensure a diligent effort by the Town that materials supplied to the Town or used on Town roads or property comply with this law. This Section shall not excuse non-compliance by a Contractor or Vendor of the Town.

#### Section 104-5. Penalties.

Any violation of Section 104-2 of this Chapter shall be an unclassified misdemeanor punishable by a fine not to exceed \$25,000.00 per violation and/or up to thirty days imprisonment. Each sale and/or application of natural gas waste shall constitute a separate and distinct violation.

Section 104-6. Severability.

If any clause, sentence, subparagraph, subsection or section of this Chapter shall be held invalid by any court of competent jurisdiction, or the application of this Chapter to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subparagraph, subsection, or operation of this Chapter directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions, of this chapter are hereby declared to be severable.

SECTION 5. EFFECTIVE DATE

This Local Law shall take effect immediately after its adoption and filing in the office of the New York State Secretary of State.

(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. 6 of 2013 of the (County)(City)(Town)(Village) of Town of Philipistown was duly passed by the Town Board on September 25, 2013, 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.

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\* 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

(Seal)

Date: \_\_\_\_\_