

Introduced by: Presiding Officer Norma Gonsalves, Deputy Presiding Officer Richard Nicoletto, Alt. Deputy Presiding Officer Howard Kopel, Minority Leader Kevan Abrahams, and Legislators Siela Bynoe, Carrie Solages, Denise Ford, Laura Curran, Francis X. Becker, Vincent Muscarella, Ellen Birnbaum, Delia DeRiggi-Whitton, Michael Venditto, Laura Schaefer, Dennis Dunne, Judy Jacobs, Rose Marie Walker, Donald MacKenzie and David Denenberg

LOCAL LAW NO. 15-2014

A LOCAL LAW AMENDING LOCAL LAW NO. 3-2012 IN RELATION TO PROHIBITING THE APPLICATION, SALE, TREATMENT AND IMPORTATION OF NATURAL GAS WASTE AND OIL EXTRACTION WASTE.

Passed by the Nassau County Legislature on October 29, 2014  
Voting: ayes: 19 nays: 0 abstained: 0

Became a law on November 7, 2014 with the approval of th County Executive.

APPROVED AS TO FORM  
  
DEPUTY COUNTY ATTORNEY

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF NASSAU, as follows:

Section 1. Local Law No. 3-2012 is hereby amended to read:

§1. Short Title.

This law shall be known as the "Law Against the Application, Sale, Treatment and Importation of Natural Gas Wastes and Oil Extraction Wastes."

§ 2. Legislative Intent.

This Legislature finds that hydraulic fracturing is a mining technique used to extract fossil fuels that have collected in layers of porous rock.

This Legislature further finds that hydraulic fracturing, commonly known as “hydrofracking,” involves the injection of fracturing fluids through a well into a rock formation at a force exceeding the parting pressure of the rock, which causes fractures in the rock through which oil and natural gas can be released and captured for further processing and use.

This Legislature further finds that fracturing fluids are comprised of water and chemical additives, including, but not limited to, biocides, surfactants, viscosity-modifiers and emulsifiers, which vary in toxicity and include known carcinogens.

This Legislature further finds that once hydraulic fracturing has been completed at a well site, the fluids used to fracture the rock, commonly referred to as flowback water, return to the surface.

This Legislature further finds that the New York State Department of Environmental Conservation identified few sewage treatment plants in Nassau County as facilities capable of handling flowback water or other wastewater from hydraulic fracturing activities.

This Legislature further finds that tertiary wastewater treatment facilities treat water to remove nitrogen, phosphorous, and carbons, but do not treat for all of the chemicals in fracturing fluid and flowback water.

This Legislature further finds that Nassau County's wastewater treatment facilities discharge treated water into waterways which feed into Long Island's sole source aquifer.

This Legislature further finds that it is not in the best interests of Nassau County or its

residents to accept toxic byproducts of hydraulic fracturing into Nassau County sewage treatment facilities for processing.

This Legislature further finds that several municipalities have prohibited the use of hydraulic fracturing waste on municipal property and roadways and that several states and municipalities, including the counties of Westchester and Rockland, have enacted laws to prohibit the use or sale of hydrofracking waste within their jurisdictions.

This Legislature also finds that relatively safe extraction of oil and natural gas via vertical wells does indeed create waste and byproducts that are similar to that of hydraulic fracturing, which also contaminates our groundwater, the environment and threatens biological health.

This Legislature concludes that it is in the best interests of Nassau County residents to take additional steps at this time to ensure that the waste products generated by hydrofracking and the extraction of oil and natural gas via vertical wells will not threaten the environment of Nassau County or the health of its citizens.

Therefore, the primary purpose of this local law is to prohibit the acceptance of wastewater produced by hydraulic fracturing by sewage treatment facilities located in, owned and/or operated in or by Nassau County, as well as prohibit the use of hydraulic fracturing waste, oil extraction waste and natural gas waste on County property and roadways and the sale of hydrofracking waste, oil extraction waste, and/or natural gas waste within the jurisdiction of Nassau County.

§ 3. Definitions. As used in this law, the following terms shall have the meanings indicated:

“Application” shall mean the act of placing or spreading of natural gas waste, hydrofracking waste, and/or oil extraction waste

“County” shall mean Nassau County.

“Hydraulic fracturing” shall mean fracturing of a rock by man-made fluid-driven fracturing techniques for the purpose of stimulating natural gas or other subsurface hydrocarbon production.

“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, rotary and vertical drilling, hydraulic fracturing and storage and storage operations involving natural gas extraction waste.

“Natural gas waste” shall mean any waste that 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, hydraulic fracturing waste and leachate from solid wastes associated with natural gas extraction activities, including derivative materials formed by processing and/or breaking down natural gas waste.

“Oil extraction activities” shall mean all geological and geophysical activities related to the exploration or extraction of oil by way of vertical drilling, and storage and storage operations involving ~~natural~~ oil extraction waste.

“Oil extraction waste” shall mean any waste that is generated as a result of oil extraction activities by way of vertical drilling, which waste may consist of water, chemical additives or naturally occurring radioactive materials (“NORMS”) and heavy metals, including derivative materials formed by processing and/or breaking down oil extraction waste.

§4. Prohibition.

- A. No sewage treatment facility located in, owned and/or operated in or by Nassau County shall accept or treat flowback water, natural gas waste, oil extraction waste or any other wastewater resulting from hydraulic fracturing activities.

- B.** The sale or distribution of natural gas waste and oil extraction waste within the County is prohibited.
- C.** The application of natural gas waste on any road or real property in the County is prohibited.
- D.** No natural gas waste shall be permitted to enter the County.
- E.** No oil extraction waste shall be permitted to enter the County.
- F.** The application or distribution of oil extraction waste on any road or real property in the County is prohibited.
- G.** No products with ingredients or additives that originated from natural gas waste may be sold or distributed within the County.
- H.** No products with ingredients or additives that originated from oil extraction waste may be sold or distributed within the County.

§ 5. County Bids and Contracts.

- A. All County bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain any roads or real property located within the County shall contain a provision stating that no materials containing natural gas waste or oil extraction waste shall be utilized in the performance of such contracts.
- B. All County bids and contracts related to the retention of services to construct or maintain any roads or real property located within the County shall include a provision stating that no materials containing natural gas waste or oil extraction waste shall be utilized in providing such a service.
- C. All County bids shall include the following statement: "We, \_\_\_\_\_ of the \_\_\_\_\_ hereby submit a bid for materials, equipment or labor for the \_\_\_\_\_. The bid is for bid documents titled \_\_\_\_\_. We hereby certify under penalty of perjury that no natural gas waste or oil extraction waste will be utilized by the undersigned bidder or any contractor, sub-contractor, agent or vendor thereof in connection with the bid; nor will the undersigned bidder or any sub-contractor, agent or vendor thereof apply or supply any natural gas waste or oil extraction waste to any property or road(s) of Nassau County as a result of the

submission of this bid if selected.” The Statement shall otherwise be sworn to under penalty of perjury in a form satisfactory to the Nassau County Attorney.

§ 6. Enforcement and Promulgation of Rules. The County Board of Health and the Commissioner of the County Department of Public Works and the Commissioner of the County Office of Consumer Affairs, in consultation with one another, are hereby authorized and empowered to jointly promulgate such rules and regulations as they deem necessary for the implementation and enforcement of the provisions of this law. Furthermore, in addition to any other enforcement power conferred by this local law or other applicable law, the County Department of Health, Environmental Health Division, the County Department of Public Works and the County Office of Consumer Affairs, Weights and Measures Division, shall be authorized and empowered to participate with other local, state and federal law enforcement agencies, including the Environmental Crimes Unit of the Office of the Nassau County District Attorney, in joint initiatives to enforce the provisions of this local law.

§ 7. Penalties. Any violation of Section 4 of this law shall constitute an unclassified misdemeanor, punishable by a fine not to exceed \$25,000 per violation and/or up to 30 days imprisonment. Each sale, distribution or application of natural gas waste or oil extraction waste shall constitute a separate and distinct violation. Each violation of Section 4 of this law shall also constitute a civil violation. The County Attorney is hereby authorized to bring and maintain a civil proceeding in a court of competent jurisdiction to recover the fines imposed under this Section, as well as to enforce the provisions of this local law through appropriate monetary and equitable relief.

§ 8. Applicability. This law shall apply to all actions occurring on or after the effective date of this law.

§9. Reverse Preemption. This law shall be null and void on the day that state or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law. The County Legislature may determine via resolution whether or not identical or substantially similar state or federal legislation has been enacted for the purposes of triggering the provisions of this section.

§ 10. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 11. SEQRA Determination. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L., section 0101 et seq. and its implementing regulations Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local is an "Unlisted" Action within the meaning of 6 N.Y.C.R.R. Part 617, and has directed the preparation of an Environmental Assessment Form , and based on the information in the Environmental Assessment Form and the criteria in Section 617.7 of 6N.Y.C.R.R. Part 617 has determined in accordance with the mandates of SEQRA that this proposed local law will not have a significant impact on the environment, and no further review is required.

§ 12. Effective Date. This local law shall take effect sixty (60) days after it shall have become a law.

**APPROVED**

  
**County Executive**

**DATE** November 7, 2014