

Introduced by: Legislators Denenberg and DeRiggi-Whitton
Co-Sponsored by: Minority Leader Abrahams and Legislators Bosworth, Jacobs,
Scannell, Solages, Troiano and Wink

PROPOSED LOCAL LAW NO -2012

A LOCAL LAW in relation to prohibiting the acceptance
of wastewater produced by hydraulic fracturing at Nassau
County Sewage Treatment Facilities

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

§1. Short Title. This law shall be known as “Hydrofracking Prohibition” and shall appear in the Miscellaneous Laws as Title 78.

§ 2. Legislative Intent. This Legislature finds and determines that hydraulic fracturing, commonly known as hydrofracking is a controversial mining technique used to extract fossil fuels that have collected in layers of porous rock, which 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 and 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 several states and municipalities, including Buffalo, Kingston, and Auburn, New York, and the state of Maryland, have set a policy not to accept flowback wastewater and other wastewater created by hydraulic fracturing occurring outside their communities.

A September 2011 report by the New York State Department of Environmental Conservation identified Nassau County sewage treatment plants in Inwood, Bay Park, Cedar Creek and Glen Cove as facilities capable of handling flowback water or other wastewater from hydraulic fracturing activities. This Legislature disagrees in that our sewage treatment plants at this time are not capable of efficiently handling flowback, and finds that it is in the best interest of the residents of Nassau County that the County should not accept toxic byproducts of hydraulic fracturing into our county sewage treatment facilities for processing.

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

“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 oil well production.

§ 4. Prohibition. No sewage treatment facility owned and/or operated by the County shall accept or treat flowback water or any other wastewater resulting from hydraulic fracturing activities.

§ 5. Promulgation of Rules. The Commissioner of the County Department of Public Works is hereby authorized and empowered to promulgate such rules and regulations as it deems necessary for the implementation and enforcement of the provisions of this law.

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

§ 7. 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.

§8. SEQRA Determination. This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this action is an unlisted action under the provisions of Title 6 NYCRR Part 617, and that based on an evaluation of the environmental criteria set forth in §617.7(c) that are considered to be indicia of significant adverse environmental impacts, along with the recommendation of the Nassau County Planning Commission acting in its advisory capacity to the Legislature, that such action will not have significant adverse impacts on the environment, and that no additional environmental review or action is necessary.

§9. Effective Date. This law shall take effect immediately.