

TOWN OF TRENTON

LOCAL LAW 1 OF 2012

A LOCAL LAW TO impose a moratorium on the activity known as hydraulic fracturing, hydrofracking, or any similar intensive industrial use, in the Town of Trenton.

Be it enacted by the Town Board of the Town of Trenton as follows:

Section 1. Title

This local law shall be referred to as the ~~%~~local law imposing a moratorium on the activity known as hydraulic fracturing, hydrofracking, or any similar intensive industrial use, in the Town of Trenton.+

Section 2. Purpose and Intent

Pursuant to the statutory powers vested in the Town of Trenton to regulate and control land use and to protect the health, safety, and welfare of its residents, the Town Board of the Town of Trenton declares a twelve 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 Trenton.

Section 3. Legislative Findings

- A. At the present time, it is not clear what safeguards are anticipated to be put in place by the NYDEC and/or New York State Legislature to protect New York waters, air, soil, flora, fauna, properties and people, nor exactly how long such regulation may take to enact. Accordingly, it is difficult for the Town to determine the type of Town laws that would be necessary to protect the Town.
- B. This Board will use the moratorium period to continue to monitor and review state legislation, legislations of other towns and municipalities relating to this subject and gather information; including possible legislative language for the Town to consider.

- C. The Town is concerned with the potential for damage to groundwater quality and quantity, potential for sediment and erosion and the use of naturally occurring radioactive materials. Hydrofracking requires the use of large amounts of water, including the use of surface water (rivers, basins, lakes), 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, affecting many water wells in the Town. Additionally, there may be further impacts to local roads during the construction and use of any potential well. Lastly, the Town is concerned with the potential environmental impacts on water quality, agricultural land uses, and wetlands.
- D. Further, this moratorium is intended to provide the time for study of this issue so that comprehensive and fair legislation can be crafted to address these issues. The Town Board also determines that while the review of these regulations is being undertaken, and in consideration of the significant environmental issues surrounding the hydrofracking process and its potentially permanent and irreversible consequences, a moratorium is appropriate and necessary in order to preserve the status quo until new regulations can be adopted.

Section 4. Definitions

HYDRAULIC FRACTURING OR HYDROFRACKING . For purposes of this Local Law, the term ~~%hydraulic fracturing+~~ 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 breaking and/or fracturing of shale and/or other natural structures under the ground intending to release natural gas from the ground.

PERSON . For the purposes of this local law, the term ~~%pe~~erson+ shall include an individual, society, club, firm, partnership, joint venture, corporation, or the association of persons, and the singular shall include the plural number.

TOWN - For the purposes of this local law, the term ~~%T~~own+ shall mean the Town of Trenton.

TOWN BOARD, PLANNING BOARD, and ZONING BOARD OF APPEALS - For the purposes of this local law, the term ~~%Town Board+~~, ~~%Planning Board+~~, and ~~%Zoning Board of Appeals+~~ shall refer to the respective boards established in and for the Town of

Trenton.

Section 5. Scope and Controls

- A. For the period of twelve months following the effective date of this local law, no new hydrofracking facilities or operations, as defined by this local law, or expansions beyond existing operations or facilities shall be permitted by any person in the Town of Trenton.
- B. During the effective period of this Local Law:
 - 1. The Town Planning Board shall not consider and/or approve any site plan, approve any special use permit or other permit which would have as a result of the establishment, implementation, placement, construction or development of any new hydrofracking facility or operation, including any activity associated therewith or in furtherance of hydrofracking, or the enlargement of any existing hydrofracking facility or operation within the Town.
 - 2. The Town Zoning Board of Appeals shall not consider and/or grant any variance, special use permit or other permit for any use which would result in the establishment, implementation, placement, construction or development of any new hydrofracking facility or operation, including any activity associated therewith or in furtherance of hydrofracking, or the enlargement of any existing hydrofracking facility or operation within the Town.
 - 3. The Codes Enforcement Officer of the Town shall not consider or issue any building permit or other permit which would result in the establishment, implementation, placement, construction or development of any new hydrofracking facility or operation, including any activity associated therewith or in furtherance of hydrofracking, or the enlargement of any existing hydrofracking facility or operation within the Town.
- C. If, within twelve months, the Town Board adopts a local law relating to hydrofracking, the moratorium imposed by this local law shall expire immediately on the date the local law relating to hydrofracking takes effect in accordance with Section 27 of the Municipal Home Rule Law.

Section 6. Exceptions

The lawful use of any premises on the effective date of this local law

operated under a permit issued by the Town of Trenton or other appropriate state or federal agency may be continued, provided that such use shall not be enlarged or extended beyond the existing location and operation.

Section 7. Term

This moratorium shall be in effect for a period of 12 months from the date of this local law.

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 \$1,000.00 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.

Section 9. Conflict with Other Laws

This Local Law is enacted pursuant to the provision of the Town Law and the Municipal Home Rule Law of the State of New York. During the duration of times that this Law is in effect, it shall take precedence over and shall be considered controlling over contrary laws, ordinances and provisions including, but not limited to, the statutes set forth in the New York Town Law related to zoning and subdivision.

Section 10. Severability

If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 11. When Effective

This Local Law shall take effect upon the filing at the New York State Secretary of State's office.