

**RESOLUTION NO. 294 -2014, ADOPTING LOCAL LAW
NO. 13 -2014, A LOCAL LAW PROHIBITING THE SALE AND
USE OF HYDRAULIC FRACTURING BYPRODUCTS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on February 11, 2014, a proposed local law entitled, "**A LOCAL LAW PROHIBITING THE SALE AND USE OF HYDRAULIC FRACTURING BYPRODUCTS**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 13 -2014, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW PROHIBITING THE SALE AND USE OF
HYDRAULIC FRACTURING BYPRODUCTS**

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

Section 1. Legislative Intent.

This Legislature hereby finds and determines that hydraulic fracturing is a technology used to extract fossil fuels that have collected in layers of porous rock.

This Legislature also finds that this technology, commonly referred to as "hydrofracking", involves the high pressure injection of fresh water mixed with chemicals and sand through a well into a rock formation, which causes fractures in the rock and the release of natural gas which is captured for further processing and use.

This Legislature determines that a certain percentage of the highly toxic fracturing fluid mixture, commonly referred to as "flowback water", returns to the surface with the gas and additional contaminants including volatile organic compounds, heavy metals, high salinity brine and radioactive elements.

This Legislature also finds that the County of Suffolk previously recognized the environmental and public health concerns associated with the byproducts of hydrofracking, prohibiting the County's sewage treatment facilities from accepting the byproducts of hydraulic fracturing (Resolution No. 244-2012) and prohibiting the use of hydraulic fracturing brine on County property or roadways (Resolution No. 1006-2012).

This Legislature further finds that several states and municipalities, including the counties of Westchester and Rockland, have enacted laws to prohibit the use or sale of hydrofracking byproducts within their jurisdictions.

This Legislature concludes that the County of Suffolk must take additional steps at this time to ensure that the waste products generated by hydrofracking do not threaten the environment of Suffolk County or the health of its citizens.

Therefore, the purpose of this local law is to prohibit the sale of hydrofracking byproducts in Suffolk County, to bar the introduction of these byproducts into the County's wastewater treatment facilities and to prohibit the use of these byproducts on any roads within the County's boundaries.

Section 2. Definitions.

As used in this law, the following terms shall have the meanings indicated:

"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.

"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.

"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, leachate from solid wastes associated with natural gas extraction activities.

"APPLICATION" shall mean the physical act of placing or spreading natural gas waste on any road or real property located within the County of Suffolk.

Section 3. Prohibitions.

- A. The introduction of natural gas waste into any wastewater treatment facility, within the County of Suffolk or operated by the County of Suffolk, is prohibited.
- B. The sale of natural gas waste within the County of Suffolk is prohibited.
- C. The application of natural gas waste on any road or real property located within the County of Suffolk is prohibited.

Section 4. Applicability.

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

Section 5. Penalties.

Any violation of Section 3 of this law shall constitute an unclassified misdemeanor, punishable by a fine not to exceed \$5,000 per violation and/or up to 30 days imprisonment. Each sale and/or application of natural gas waste shall constitute a separate and distinct violation.

Section 6. 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.

Section 7. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 8. Effective Date.

This law shall take effect immediately 60 days after its filing in the Office of the Secretary of State.

DATED: April 29, 2014

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: May 28, 2014

After a public hearing duly held on May 14, 2014
Filed with the Secretary of State on June 1, 2014