

AN ORDINANCE OF THE TOWNSHIP OF ABERDEEN ADOPTING THE CODE TO ESTABLISH NEW LEGISLATION, CHAPTER XX, SECTION 20-3, ENTITLED “FRACKING WASTE” SPECIFICALLY TO PROHIBIT THE TREATMENT, DISCHARGE, DISPOSAL, APPLICATION TO ROADWAY, OR STORAGE OF WASTEWATER, WASTEWATER SOLIDS, SLUDGE, DRILL CUTTINGS OR OTHER BYPRODUCTS FROM NATURAL GAS EXPLORATION OR PRODUCTION USING HYDRAULIC FRACTURING

WHEREAS, the Township of Aberdeen (“Township”) finds and declares that the practice of the drilling technique of hydraulic fracturing, or “fracking,” for natural gas and oil exploration and production has been found to use a variety of contaminating chemicals and materials; and

WHEREAS, the “fracking” drilling technique uses vast quantities of water mixed with chemicals and sand pumped into shale formations at high pressure to fracture the rock and extract oil or gas, and that millions of gallons of contaminated water flow back out of the well and contaminated rock and cuttings are leftover; and

WHEREAS, liquid and solid oil or gas wastes often contain constituents that are dangerous to human health and the environment. These constituents can include corrosive salts, oil and grease, heavy metals, volatile organic compounds, and naturally occurring radioactive materials, such as radium-226 and radium-228; and

WHEREAS, nearly 30 years ago the United States Environmental Protection Agency considered whether oil and gas development waste should be regulated under the Resource Conservation and Recovery Act but decided not to regulate the wastes; and

WHEREAS, there is no federal requirement for disclosure of what are considered secret and proprietary mixes of fracking fluids, making the full threat of fracking wastes unknown and more difficult to treat; and

WHEREAS, in September 2012 and again in August 2014, the Governor of New Jersey vetoed statewide legislation that would have protected residents from fracking waste; and

WHEREAS, New Jersey has about seventy wastewater treatment plants above drinking water intakes on the Passaic River and another sixty sewage treatment plants exist above drinking water intakes on the Raritan River; and

WHEREAS, oil or gas wastes may be released into the environment can contaminate essential and invaluable Township resources, such as prized agricultural land or underground drinking water resources; and

WHEREAS, there is no federal requirement for disclosure of what are considered secret and proprietary mixes of fracking fluids, meaning the full threat of fracking waste is unknown; and

WHEREAS, conventional treatment facilities not equipped to treat contaminants could allow contaminants to get discharged into public rivers and streams, harming drinking water supplies for downstream communities and aquatic life essential to sustaining recreational and commercial fisheries; and

WHEREAS, the brine from fracking is used on roads to melt ice or keep down dust but the chemicals used in fracking are able to run off into school playgrounds, residential properties, and farmland, and can ultimately contaminate rivers, streams, and underground aquifers that feed local drinking water supplies; and

WHEREAS, when oil or gas wastes are spread on roads, rain and snowmelt can wash the associated pollutants into soil, where they can eventually leach into groundwater, or directly into nearby surface water bodies. Exposure to these pollutants through contaminated water and soil, in turn, can cause harm to human health and nearby plant and animal life; and

WHEREAS, the solids and drill cuttings from fracking pose disposal risks for landfill workers by exposing them to harmful levels of toxins. Radioactive fracking waste can persist for more than a thousand years after the landfill closed, ruining the productivity of the land for many generations. Chemicals in the waste can wear away at landfill linings, causing leaks of radioactive material and other harmful contaminants. Also, layers of drilling cutting wastes could plug up the flow of landfill fluids, causing spills out the sides of the landfill; and

WHEREAS, the use sale, acquisition, storage, handling, treatment, and/or processing of oil or gas wastes presents an unacceptable risk to the health, safety, welfare, and resources of the Township; and

WHEREAS, the Mayor and Council of the Township of Aberdeen find and declare that the treatment of wastewater, wastewater solids, sludge, drill cuttings or other byproducts from the hydraulic fracturing process poses significant public health, safety and welfare risks to the citizens of the Township of Aberdeen;

NOW. THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWNSHIP OF ABERDEEN AS FOLLOWS:

Chapter XX Environmental Regulations, Section 20-3 “FRACKING WASTE”

20-3.1. Definitions.

A. “Hydraulic fracturing” shall mean the drilling technique of expanding existing fractures or creating new fractures in rock by injecting water, often with chemicals, sand, or other substances, and often under pressure, into or underneath the surface of the rock for purposes including, but not limited to, well drilling and natural gas exploration and production. The term “hydraulic fracturing” shall include “fracking,” “hydrofracking,” “hydrofracturing,” and other colloquial terms for this drilling technique.

20-3.2. No wastewater, wastewater solids, sludge, drill cuttings or other byproducts resulting from hydraulic fracturing for the purpose of natural gas exploration or production may be treated, discharged, disposed of, applied to a roadway or otherwise released into the environment, or stored in the Township of Aberdeen.

20-3.3. Enforcement.

A. Any person or entity violating the provisions of this chapter, upon conviction before a Municipal Court Judge of the Township of Aberdeen, shall be subject to a fine of not more than two thousand five hundred dollars (\$2,500.00) in the discretion of Municipal Court Judge.

B. In addition to any other remedies provided for in this chapter, the Township Attorney, or his or her designee, may commence an action in the Superior Court of New Jersey to enjoin a person or entity that has violated this chapter and for any other appropriate remedies at law or equity.

20-3.4. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance and the same are hereby repealed.

20-3.5. If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

20-3.6. The effective date of this ordinance shall be twenty (20) days after its final passage by Township Council and approval by the Mayor at the time and in the manner provided by law.

Passed: _____

Approved: _____

Attest: _____

Council President: _____

Mayor: _____