

City of Syracuse

CITY CLERK'S OFFICE

I, JOHN P. COPANAS, City Clerk of the City of Syracuse, New York do hereby certify that the attached is a true copy of an ORDINANCE:

Adopted by the Common Council on

October 24, 2011

Approved by the Mayor on

October 25, 2011



City Clerk

TO:

Mayor
Assessment Commissioner
Aviation Commissioner
Board of Elections
Bureau of Accounts
Citizen Review Board
City Auditor
City School District
Code Enforcement
Neighborhood and Business Development
Finance Commissioner
Corporation Counsel
United States Congressperson
Governor of New York State
New York State Senate
New York State Assembly
New York State Senator
Onondaga County Legislature

Management & Budget Director
Parks & Recreation Commissioner
Personnel & Labor Relations Dir.
Police Chief
Public Works Commissioner
Public Works/Bookkeeper
Purchase Department
Real Estate Division
Research Director
Water Department
Zoning Administration
United States Senator
Department of Engineering
Finance/Treasury
Finance (Water Bureau)
Fire Chief
Grants Management Director
Board of Education

**ORDINANCE AMENDING CHAPTER 27 TO
CREATE A NEW ARTICLE 10, ENTITLED
NATURAL GAS EXPLORATION AND
EXTRACTION, OF THE REVISED
GENERAL ORDINANCES OF THE CITY
OF SYRACUSE, AS AMENDED**

BE IT ORDAINED, that Chapter 27 of the Revised General Ordinances of the City of Syracuse, as amended, is amended as follows: To Create a new Article 10 entitled Natural Gas Exploration and Extraction to read as follows:

WHEREAS, the exploration for natural gas, the extraction of natural gas and the storage, transfer, treatment or disposal of natural gas exploration and production wastes through Hydrofracking or other methods or activities in the urban environment of the City of Syracuse poses a significant threat to its residents' health, safety and welfare; and

WHEREAS, the land, water, health and heritage of all residents of the City of Syracuse must be protected from potentially dangerous environmental impacts to the highest degree possible; and

WHEREAS, widespread environmental and human health impacts have resulted from natural gas exploration and extraction in other communities; and

WHEREAS, the potential development of natural gas drilling in low permeability natural gas reservoirs such as the Marcellus and Utica Shale formations has led to robust debate regarding the safety of the process and the protection of the public health and the environment; and

WHEREAS, the drilling within the Marcellus and Utica Shale employs a technique known as Hydrofracking; and

WHEREAS, many of these chemical additives are known to be toxic and have been associated with a variety of public health risks; and

WHEREAS, naturally occurring radioactive elements and other Pollution may also be disturbed and released by Hydrofracking and other natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes, leading to contamination of underground aquifers and surface waters; and

WHEREAS, there are also impacts on the communities in which Hydrofracking and other natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes, such as increased traffic, noise and habitat destruction; and

WHEREAS, Hydrofracking and other natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes, presents public health risks and risks of environmental harm including water contamination during drilling operations and during the storage and disposal of millions of gallons of water mixed with the chemical additives required for each well that is created; and

WHEREAS, if Hydrofracking and other natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes were to occur within the City, this activity would create Pollution

endangering the health, safety and welfare of City residents and the natural environment;
and

WHEREAS, the protection of residents, neighbors and the natural environment constitutes the highest and best use of the police and land use powers that the City possesses; and

WHEREAS, clean air and water are essential to most resources and activities in the Syracuse area and the quality of the air and water will be degraded by natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes; and

WHEREAS, the storage, transfer, treatment or disposal of natural gas exploration and production wastes, through Hydrofracking and other methods or activities may presently or in the future, cause irreparable harm to the City water supply, pollution of the water, soil and air, and may cause cancer, lung disease and respiratory diseases; and

WHEREAS, pollution may occur during the different stages of Hydrofracking and other natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes could have adverse human health impacts; and

WHEREAS, spills of liquid and solid wastes that originate from Hydrofracking and other natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes, whether onsite or during the transportation of these products to treatment and/or disposal facilities, is not

uncommon, and such products may come into contact with and contaminate and pollute groundwater and/or soil; and

WHEREAS, a large percentage of the chemicals used in Hydrofracking and other natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes and many of the constituents of natural gas exploration and production wastes are likely causes of adverse human health impacts; and

WHEREAS, many of the chemicals used in Hydrofracking and other natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes and many of the constituents of natural gas exploration and production wastes are deemed “Hazardous Waste” under local, state or federal laws, rules and/or regulations; and

WHEREAS, the City of Syracuse has the authority to prohibit the exploration and extraction of natural gas and the storage, treatment or disposal of natural gas exploration and production wastes within its borders; and

WHEREAS, this Revised General Ordinance is enacted as exercise of the City’s police power, its power to address land use and nuisance issues designed to protect and promote the health, safety and welfare of present and future residents of the City of Syracuse from the adverse effects and impacts which would result if Hydrofracking or other natural gas exploration and extraction or storage, transfer, treatment or disposal of natural gas exploration and production wastes were allowed in the City; and is intended to only incidentally impact the State law set forth in New York State Environmental Conservation Law Article 23; and

WHEREAS, this Revised General Ordinance is promulgated pursuant to the authority set forth in Article 9, Section 1 of the New York State Constitution and Section 10 of the New York State Municipal Home Rule Law; and

WHEREAS, this Revised General Ordinance supports the policies of the State of New York to (1) conserve, improve and protect its natural resources and environment and to prevent, abate and control water, land and air pollution in order to enhance the health, safety and welfare of the people of the State and their overall economic and social well being” and 2) reduce or eliminate the use of hazardous substances and the generation of such substances, pollution or waste at the source in order to conserve, improve and protect New York’s environment and natural resources; enhance the health, safety and welfare of its citizens; and

WHEREAS, this Revised General Ordinance is not directed at the regulatory scheme for the operation of natural gas wells under the Oil, Gas and Solution Mining Law of New York State. This Revised General Ordinance addresses land use and nuisance concerns and the protection of health, safety and welfare of the people of the City of Syracuse and the enhancement of its physical environment; and

WHEREAS, this Revised General Ordinance endorses the City of Syracuse Comprehensive Plan 2025 adopted in 2005. The Comprehensive Plan identifies the City’s goals to promote and protect the City’s open spaces and its shift from manufacturing and industrial uses to more recreational uses across the City. The City chooses not to permit sites for extraction of fossil fuels within its City limits, but rather seeks to preserve areas for other more sustainable alternatives; and

WHEREAS, the Common Council believes that the protection of residents, neighborhoods and the natural environment is an appropriate use of its police powers. The Common Council thus hereby adopts this Revised General Ordinance, which bans Hydrofracking and other natural gas exploration and extraction activities and/or the storage, transfer, treatment or disposal of natural gas exploration and production wastes within the City of Syracuse because that extraction cannot be achieved without endangering the health, safety and welfare of the residents of the City of Syracuse;

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Syracuse as follows:

The City of Syracuse Property Conservation Code is hereby amended by adding the following:

Section 27.10 Definitions:

“Exploration” shall mean geologic or geophysical activities related to the search for natural gas or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas deposits.

“Extraction” shall mean the digging or drilling of a well for the purposes of exploring for, developing or producing natural gas or other hydrocarbons.

“Hydrofracking” shall mean high volume hydraulic fracturing which is the process of drilling wells vertically into the ground then horizontally from the well head then the fracturing of shale and other natural structures by using millions of gallons of fluid mixed with multiple chemicals for the purpose of stimulating natural gas or oil for any purpose in low permeability natural gas reservoirs;

“Natural Gas” shall mean any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature or pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

“Natural Gas Exploration and Production Wastes” shall mean any garbage, refuse, sludge, or other discarded materials, including solid, liquid, semisolid or contained gaseous material that results from the exploration, drilling or extraction of natural gas.

“Pollution” shall mean the contamination or other degradation of the physical, chemical or biological properties of land, water or air that will or is likely to create a nuisance or render such land, water or air harmful, detrimental or injurious to the public health, safety or welfare, or harmful, detrimental or injurious to domestic, commercial, industrial, agricultural, recreational or other beneficial uses, or to humans and animals, birds, fish or other aquatic or wild life.

ARTICLE 10.

1. Prohibition against the Exploration for or Extraction of Natural Gas.

a. No person, firm, corporation or other entity shall conduct any Hydrofracking or other exploration for Natural Gas; drill any well for Natural Gas; transfer, store, treat or dispose of Natural Gas Exploration or Production Wastes; or erect any derrick building or other structure or place any machinery or equipment for such purpose within the territorial boundaries of the City of Syracuse.

b. The City of Syracuse shall not permit any person, firm, corporation or other entity shall conduct any Hydrofracking or other exploration for Natural Gas; drill any well for Natural Gas; transfer, store, treat or dispose of Natural Gas Exploration or Production Wastes; or erect any derrick building or other structure or place any machinery or equipment for such purpose on any property owned or controlled, through lease or otherwise by the City of Syracuse, Syracuse Regional Airport Authority or Syracuse Urban Renewal Agency.

2. Prohibition Against the Storage, Treatment and Disposal of Natural Gas Extraction Wastes.

a. The storage, transfer, treatment and/or disposal of Natural Gas Exploration and Production Wastes are deemed hazardous wastes within the meaning of the City Charter, Local Law or Ordinance and any Federal or State law, rule or regulation wherein the term “Hazardous Waste” is defined.

b. No person, firm, corporation or other entity shall engage in the storage, transfer, treatment and/or disposal of Natural Gas Exploration and Production Wastes within the territorial boundaries of the City of Syracuse. No permit issued by any state or federal agency, commission or board to any person, firm or corporation, which would violate the prohibitions of this Revised General Ordinance shall be deemed valid within the City of Syracuse.

3. Prohibition Against Pollution.

No person, firm, corporation or other entity shall engage in the Pollution of any real property located in the territorial limits of the City of Syracuse or any real property

owned or leased by or from the City of Syracuse, Syracuse Urban Renewal Agency, or Syracuse Regional Airport Authority.

4. Enforcement.

a. Any person, firm, corporation or other entity who violates any prohibition of this Revised General Ordinance shall be guilty of a summary offense and, upon conviction thereof, shall be subject to the maximum fine allowable under the City Charter and applicable local law or ordinance for said violation. A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Revised General Ordinance found to be violated.

b. The City of Syracuse may also enforce this Revised General Ordinance through action in equity brought in New York State Supreme Court. In such an action, the City of Syracuse shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees. In the alternative the City may choose to enforce this Revised General Ordinance through City Court in the manner provided by law.

5. Effective Date and DEC Permit Holders.

This Revised General Ordinance shall be effective five (5) days after the date of its enactment, at which point the Revised General Ordinance shall apply to any Hydrofracking or other natural gas exploration and extraction or storage, transfer, treatment or disposal of natural gas exploration and production wastes in the City of Syracuse regardless of the date of any applicable DEC permits.

6. Severability.

The provisions of this Revised General Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part or provision of this Revised General Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts or provisions of this Revised General Ordinance.