

ORDINANCE NO. 2015-27

AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY, AMENDING AND SUPPLEMENTING THE GENERAL CODE OF THE BOROUGH OF RED BANK TO ESTABLISH NEW LEGISLATION, 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

Councilman Zipprich offered the following ordinance and moved its adoption on final reading:

WHEREAS, the Borough Council of the Borough of Red Bank finds and declares that the practice of the drilling technique of hydraulic fracturing, or "fracking," for natural gas 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 solids pumped into shale formations at high pressure to fracture the shale formations and that millions of gallons of contaminated water flow back out of the well; and

WHEREAS, the high concentrations of solids present in hydraulic fracturing wastewater and other wastes may include calcium, magnesium, phosphates, nitrates, sulphates, chloride, barium, cadmium, strontium, dissolved organics such as benzene and toluene, and copper, which would interfere with the processes of wastewater treatment plants by inhibiting the anaerobic digestion processes and disrupting the biological digestion processes; and

WHEREAS, the heavy metals present may precipitate during the treatment process and contaminate biosolids from the plant, which would require expensive decontamination of drying beds or prevent the usual methods for reuse or disposal of those biosolids; and

WHEREAS, the Borough Council of the Borough of Red Bank finds and declares 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 Borough of Red Bank; now, therefore,

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that General Code of the Borough of Red Bank is amended to add the following new legislation:

SECTION 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.

SECTION 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 Borough of Red Bank.

SECTION 3. Enforcement.

- A. Any person or entity violating the provisions of this chapter, upon conviction before a Municipal Court Judge of the Borough, shall be subject to a fine of not less than two thousand-five hundred dollars (\$2,500.00) and not more than ten thousand dollars (\$10,000.00) in the discretion of the Municipal Court Judge.
- B. In addition to any other remedies provided for in this chapter, the Borough 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.

SECTION 4. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 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.

SECTION 6. The effective date of this ordinance shall be twenty (20) days after its final passage of Borough Council and approval by the Mayor at the time and in the manner provided by law.

Seconded by Councilwoman Horgan and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilwoman Lee	(x)	()	()	()
Councilwoman Burnham	(x)	()	()	()
Councilwoman Horgan	(x)	()	()	()
Councilwoman Schwabenbauer	(x)	()	()	()
Councilman Zipprich	(x)	()	()	()
Councilman DuPont	()	()	()	(x)

Dated: November 9, 2015