

HOW TO BAN FRACKING IN YOUR TOWN



Do Towns Have the Right to Ban?

- ECL 23-0303. *The provisions of this article shall supersede all local laws or ordinances relating to the regulation of the oil, gas, and solution mining industries...*
- Parallel language in the law regulating the extractive mining industry (ECL 23-2703)
- *Frew Run Gravel Products v Town of Carroll (1987)*
 - ▣ *We cannot interpret the phrase “local laws relating to the extractive mining industry” as including the Town of Carroll Zoning Ordinance. The zoning ordinance relates not to the extractive mining industry but to an entirely different subject matter and purpose: i.e. regulating..the use of land*

Towns Have the Right, cont

- 1991: ECL 23-2703 amended
 - *...nothing in this title shall be construed to prevent any local government from enacting or enforcing local zoning ordinances or laws...*
- *Gernatt Asphalt Products v Town of Sardinia (1996)*
 - Sardinia banned mining altogether
 - Town's law upheld
 - *A municipality is not obliged to permit the exploitation of any and all natural resources within the town as a permitted use if limiting that use is a reasonable exercise of its police power to prevent damage to the rights of others and to promote the interests of the community as a whole.*

Working with the Town Board

- Who are they, and where do they stand?
- Cases:
 - ▣ You have a majority that favors a ban
 - 5-0 or 4-1 vs 3-2
 - Section 239 referral
 - ▣ Neutral or Undetermined
 - Stress fiscal prudence
 - Cost of doing nothing (roads)
 - Ask for a Moratorium
 - Flatter them; don't threaten them
 - Work with any allies on the board

Working with the Town Board, cont

- Board is opposed
 - ▣ Petition drive
 - ▣ Ask each signer to write a letter to the Board
 - ▣ Urge petitioners to attend every Town Board meeting, their presence alone will act as pressure
 - ▣ Urge them to speak during “Privilege of the Floor”
 - ▣ Invite reporters to all Town Board meetings
 - ▣ Run your own candidates
 - ▣ Get your people to the polls

Town Board's Objections

- “We’ll be sued”
 - ▣ They don’t need to sue you; the issue is already under adjudication in Dryden & Middlefield
 - ▣ The current suits do not ask for damages
 - ▣ You can always just withdraw the ordinance
 - ▣ We’ll back you up (fundraising efforts)
- “It’s up to the State, not the Town”
 - ▣ This is now being considered in the State courts
- “We don’t have the time, money, or expertise”
 - ▣ Consultation is available free of charge by CEDC/Slottjes
 - ▣ At this point, there are many existing model ordinances

Town Board's Objections, continued

- No comp plan or zoning
 - ▣ You can still use the Town's land use power
- The board have gas leases (personal interest)
 - ▣ You have the duty to support the majority who will be adversely affected but not compensated
- You are not the majority
 - ▣ If we are, will you pass the ban?
 - ▣ Now, go get signatures

The Ordinance

- Prohibits all heavy industry, not just fracking
- If the Town has zoning, it's a revision to the zoning code
 - ▣ Ties in to the Comprehensive Plan
- If the Town doesn't have zoning, it's a land use ordinance
- It prohibits *all* drilling and related activities
 - ▣ Carefully avoids “regulating the industry”
 - ▣ Old wells are grandfathered in

Door-to-Door Petitioning

- Obtain voter registration list (on CD) from County Election Board.
- Load to a database or spreadsheet (searchable and sortable)
- Create “street-sheets”
- Keep petition language brief. Allow enough room for name, address, phone and ****EMAIL****.
- Select handouts & other materials (photos!)

Sample Street Sheet

Podunk Road

<i>Yes</i>	<i>No</i>	<i>Rtn</i>	<i>Vol</i>	<i>Number</i>	<i>First</i>	<i>Last</i>	<i>Age</i>
				3020	FRANCIS W	BIRDSALL	58
X		X	X	3020	ANNETTE I	BIRDSALL	50
				3020	MARGAUX L	BIRDSALL	25
				3031	PEARL M	MILLER	88
				3245	SUSAN J	NIEMI	36
				3245	MICHAEL T	NIEMI	44
X				3376	MAYA P	DONENFELD	42
X				3376	SUNNY	DONENFELD	43
	X			3410	TIMOTHY S	SWARTZ	46
	X			3410	DEBBIE A	SWARTZ	45
X				3488	Rosemary	Wells	-99

Sources for Handouts

- Establish a central location for storing handouts (porch)
- Downloadable tri-fold flyers
 - ▣ *Economics of Extracting Natural Gas From Shale Formations*, from GasMain.org
 - ▣ *Hunting & Fishing at Risk*, from GasMain.org
 - ▣ *The MYTH of 'Clean' Natural Gas -- What ALL New Yorkers Should Know*, from NYRAD.org
- Primers, for educating volunteers
 - ▣ *The Case for a Ban on Gas Fracking* (pdf), a 15-page pamphlet from FoodandWaterWatch.org

Other ways to get signatures

- ❑ Table at local events
- ❑ Farmers Market: If tabling isn't allowed, carry petition (discretely) and circulate. It's public property.
- ❑ Leave petition with trusted shop owner who will call you when it's complete.
- ❑ Email it to a trusted volunteer
- ❑ On-line petition
- ❑ Phone petition with targeted list; script available from Sue Rapp <srapp@stny.rr.com>

Handling Objections

- “Drilling creates jobs”
 - ▣ It takes away jobs in established industries, resulting in a net loss
 - ▣ Most workers are from out of state
 - ▣ Jobs are temporary (boom, then bust)
- “Opposing drilling is NIMBY”
 - ▣ We’d prefer that the adequate protections would be provided from the Federal or State level
 - ▣ Our position is NIABY: We should be investing in renewable energy

Handling Objections

- “Drilling will give us energy independence”
 - ▣ Much of the gas will be exported
 - ▣ Natural gas does not replace liquid fuels (transportation)
 - ▣ Natural gas could replace some coal, but does not reduce coal mining (the coal will just be exported)
 - ▣ True independence can only come from reducing dependence on fossil fuels

Handling Objections

- “I need the money to pay my farm’s property taxes”
 - ▣ The problems of farming should be solved through agricultural policy
 - ▣ Commodity prices are increasing, especially for organic crops
- “You can’t take away lease holders’ mineral rights”
 - ▣ The right to profit from one’s property is not absolute
 - ▣ Since the community will be impacted, the community has a say

Public Events

- Organize educational events
 - free screening of “Gasland”
 - a speaker, like Don Barber with great aerial photos of PA
 - a forum with panelists
 - distribute educational DVDs to churches (see Sue Rapp)
- Explore affordable venues
 - Fire Hall (\$10) vs. school auditorium (\$300/janitors)
- Do free publicity
 - calendars in papers & on-line
 - postering
- Help Town Board organize Public Info session(s) and the required Public Hearing
- Invite Town Board members to all events

Contact Info

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