

# **An Ordinance Prohibiting Waste Associated with Natural Gas and Oil Extraction**

**Adopted by the Board of Selectmen at its 1/17/19 meeting**

**Town Clerk Serial Number: TM Vol 9 pg 666**

## **1-01 Definitions:**

For the purposes of this Ordinance, the following terms, phrases, and words shall have the meanings given here, unless otherwise clearly indicated by the context:

- 1) “*Application*” shall mean the physical act of placing or spreading natural gas waste or oil waste on any road or real property located within the Town of Weston.
- 2) “*Code Enforcement Officer*” shall mean the Compliance Officer for the Town of Weston.
- 3) “*Hydraulic fracturing*” shall mean the fracturing of underground rock formations, including shale and non-shale formations, by manmade fluid-driven techniques for the purpose of stimulating oil, natural gas, or other subsurface hydrocarbon production.
- 4) “*Natural gas extraction activities*” shall mean all geologic or geophysical activities related to the exploration for or extraction of natural gas, including, but not limited to, core and rotary drilling and hydraulic fracturing.
- 5) “*Natural gas waste*” shall mean: a) any liquid or solid waste or its constituents that is generated as a result of natural gas extraction activities, which may consist of water, brine, chemicals, naturally occurring radioactive materials, heavy metals, or other contaminants; b) leachate from solid wastes associated with natural gas extraction activities; c) any waste that is generated as a result of or in association with the underground storage of natural gas; d) any waste that is generated as a result of or in association with liquefied petroleum gas well storage operations; and e) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.
- 6) “*Oil extraction activities*” shall mean all geologic or geophysical activities related to the exploration for or extraction of oil, including, but not limited, to, core and rotary drilling and hydraulic fracturing.

- 7) “*Oil waste*” shall mean: a) any liquid or solid waste or its constituents that is generated as a result of oil extraction activities, which may consist of water, brine, chemicals, naturally occurring radioactive materials, heavy metals, or other contaminants; b) leachate from solid wastes associated with oil extraction activities; and c) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.

### **1-02 Prohibitions:**

- 1) The application of natural gas waste or oil waste, whether or not such waste has received Beneficial Use Determination or other approval for use by the Department of Energy & Environmental Protection (“DEEP”) or any other regulatory body, on any road or real property located within the Town of Weston for any purpose is prohibited.
- 2) The introduction of natural gas waste or oil waste into any wastewater treatment facility within or operated by the Town of Weston is prohibited.
- 3) The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the Town of Weston is prohibited.
- 4) The storage, disposal, sale, acquisition, transfer, handling, treatment and/or processing of natural gas waste or oil waste is prohibited within the Town of Weston.

### **1-03 Provision to be included in bids and contracts related to the construction or maintenance of publicly owned and/or maintained roads or real property within the Town of Weston:**

- 1) All bids and contracts related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the Town of Weston shall include a provision stating that no materials containing natural gas or oil waste shall be utilized in providing such a service.
- 2) All bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and/or maintained road or real property within the Town of Weston shall include a provision stating that no materials containing natural gas or oil waste shall be provided to the Town of Weston.
- 3) The following statement, which shall be a sworn statement under penalty of perjury, shall be included in all bids related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and or

maintained road or real property within the Town of Weston and all bids related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the Town of Weston: *“We hereby submit a bid for materials, equipment and/or labor for the Town of Weston.. The bid is for bid documents titled\_\_\_\_\_ . We hereby certify under penalty of perjury that no natural gas waste or oil waste will be used by the undersigned bidder or any contractor, sub-contractor, agent or vendor agent in connection with the bid; nor will the undersigned bidder or any sub-contractor, agent or vendor agent thereof apply any natural gas waste or oil waste to any road or real property within the Town of Weston as a result of the submittal of this bid if selected.”*

#### **1-04 Penalties**

- 1) This ordinance shall apply to any and all actions occurring on or after the effective date of this ordinance.
- 2) In response to a violation of this ordinance, the Town of Weston is empowered to:
  - a) Issue municipal citations not to exceed two hundred and fifty dollars per violation for each day of ongoing violation pursuant to Chapter 39 of the Code of Ordinances, provided that a written notice of violation has been issued;
  - b) issue “Cease and Desist” orders requiring abatement of the violation;
  - c) seek any appropriate legal relief, including immediate injunctive relief, as a result of any violation of this ordinance;
  - d) file a complaint with any other proper authority;
  - e) require remediation of any damage done to any land, road, building, aquifer, well, watercourse, air quality or other asset, be it public or private, within the Town of Weston; and
  - f) pursue any additional remedies to which it may be entitled, at law and in equity, to the extent permitted by state and federal laws.
- 3) The Town of Weston may recover from the offending person(s), jointly and severally, all costs, including experts, consultants and reasonable attorney’s fees, that it incurs as a result of having to prosecute or remediate any infraction of this ordinance.

- 4) The provisions of this Section are in addition to and do not supersede any penalties resulting from simultaneous violations of state or federal laws, to the extent permitted by law.

#### **1-05 Enforcement:**

- 1) The Code Enforcement Officer is authorized to enforce violations of this Chapter.
- 2) Any person issued a municipal citation pursuant to this Chapter shall be entitled to a hearing to contest the citation pursuant to Chapter 39 of the Code of Ordinances.
- 3) The involvement of any Weston officials will not require testing of waste products to determine chemical contents, this work will be done via contacting CT DEEP or other third party analytical laboratories as is current practice of the Town of Weston for other exposures to potentially hazardous chemical situations.
- 4) Any designee authorized by the First Selectman of the Town of Weston may request the Commissioner of CT DEEP pursue civil penalties defined by the Connecticut General Statutes, as applicable.

#### **1-06 Severability**

If any clause, sentence, paragraph, subdivision, section or part of this local 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, effect 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. To further this end, the provisions of this Chapter are hereby declared to be severable.

#### **1-07 Transportation**

Nothing in this ordinance shall be interpreted to ban the transportation of any product or by- product described herein on any roadway or real property within the Town of Weston.