

TOWN OF PORTLAND, CONNECTICUT

CODE OF ORDINANCES

Chapter 12

OFFENSES AND MISCELLANEOUS PROVISIONS

Article I. IN GENERAL

**Sec. 12-4 Ordinance Prohibiting the Storage, Disposal or Use of Fracking Waste**

**Definitions for the Purposes of this Ordinance:**

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:

- a) *“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.
- b) *“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.
- c) *“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.
- d) *“Natural gas waste”* shall mean: 1) 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; 2) leachate from solid wastes associated with natural gas extraction activities; 3) any waste that is generated as a result of or in association with the underground storage of natural gas; 4) any waste that is generated as a result of or in association with liquefied petroleum gas well storage operations; and 5) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.
- e) *“Oil waste”* shall mean: 1) 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; 2) leachate from solid wastes associated with oil extraction activities; and 3) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.
- f) *“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 Portland.

**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 DEEP (Department of Energy & Environmental Protection) or any other regulatory body, on any road or real property located within the Town 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 is prohibited.
3. The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the Town is prohibited.
4. The storage, disposal, sale, acquisition, handling, transfer, treatment and/or processing of waste from natural gas or oil extraction is prohibited within the Town.

**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:**

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 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 shall include a provision stating that no materials containing natural gas or oil waste shall be provided to the Town.
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 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: *"We \_\_\_\_\_ hereby submit a bid for materials, equipment and/or labor for the Town of Portland. 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 with the Town of Portland as a result of the submittal of this bid if selected."*

## **Penalties**

This ordinance shall apply to any and all actions occurring on or after the effective date of this ordinance. In response to a violation of this ordinance, the Town is empowered to a) issue "Cease and Desist" orders demanding abatement of the violation, b) seek any appropriate legal relief, including immediate injunctive relief, as a result of any violation of this ordinance; c) file a complaint with any other proper authority; and d) to 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 Portland. The Town may impose fines in any amounts it deems necessary and to recoup 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.

## **Severability**

If any clause, sentence, paragraph, subdivision, section or part of this ordinance 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 ordinance 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.