

**Town Board Resolution 2014-550**

**Category:** Local Laws  
**Sponsors:** Councilman Bradley Bender  
**Department:** Town Attorney

**Resolution of Adoption to Enact Town Code Chapter 159 (Hydraulic Fracturing)  
 Prohibiting the Sale, Application and Disposal of Waste Associated with Natural  
 Gas Exploration and Extraction Activities**

WHEREAS, the Town Board is considering enacting Town Code Chapter 159 (Hydraulic Fracturing) in order to prohibit the use of produced water from low-volume hydraulic fracturing operations within the town, and

WHEREAS, a public hearing was held on April 22, 2014, at which time all persons either for or against the enactment were heard; and

WHEREAS, the Department of Land Management has advised the Town Board that the proposed amendment to Chapter 150 of the Town Code of Southampton is a "Type II Action" under the provisions of the New York State Environmental Quality Review Act (SEQRA) and Chapter 157 of the Town Code and that no further review under New York Environmental Conservation Law, Article 8, is necessary; now, therefore, be it

RESOLVED, that Local Law No. of 2014 is hereby adopted as follows:

LOCAL LAW NO. OF 2014

A LOCAL LAW enacting Town Code Chapter 159 (Hydraulic Fracturing) Prohibiting activities with respect to the sale, application and disposal of waste associated with natural gas exploration and extraction activities.

BE IT ENACTED by the Town Board of the Town of Southampton as follows:

**SECTION 1. Legislative Intent.**

The DEC currently permits the use of produced water from low-volume hydraulic fracturing operations for road spreading as a de-icer or for dust control if the road spreader obtains a Beneficial Use Determination (BUD) from the DEC. Moreover, the Revised Draft Supplemental Generic Environmental Impact Statement on Oil, Gas and Solution Mining Regulatory Program leaves open the possibility of spreading produced water from high-volume hydraulic fracturing on roads pending further study of its radioactive ingredients. The Town Board has been informed that the application of such waste water, which contains radioactive materials, upon the roadways and real property located within the Town of Southampton may pose a health and environmental risk to our residents, natural resources, bays and waterways and should therefore be prohibited.

**SECTION 2. Amendment.**

Southampton Town Code Chapter 159 is hereby enacted by adding the underlined words as follows:

**Chapter 159**

**HYDRAULIC FRACTURING**

**§159-1. Definitions.**

APPLICATION: The physical act of placing or spreading natural gas waste.

HYDRAULIC FRACTURING: The fracturing of shale formations by man-made fluid-driven techniques for the purpose of stimulating natural gas or other subsurface hydrocarbon production.

NATURAL GAS EXTRACTION ACTIVITIES: All geological or geophysical activities related to the exploration for or extraction of natural gas or other subsurface hydrocarbon deposits, including, but not limited to, core and rotary drilling and hydraulic fracturing.

NATURAL GAS WASTE: Any waste which is generated as a result of natural gas extraction activities, which may consist of water, chemical additives, or naturally occurring radioactive materials ("NORMs") and heavy metals.

**§159-2. Prohibition.**

- A. The introduction of natural gas waste into any wastewater treatment facility within the Town of Southampton which is either privately operated or operated by the Town of Southampton is prohibited.
- B. The sale of natural gas waste within the Town of Southampton is prohibited.
- C. The application of natural gas waste on road or real property located within the Town of Southampton is prohibited.

**§159-3. Bids and Contracts.**

- A. All Town initiated bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain a Town road or other Town facility/property shall include a provision stating that no materials containing natural gas waste shall be provided to the Town.
- B. All Town initiated bids and contracts related to the retention of services to construct or maintain a Town road shall include a provision stating that no materials containing natural gas waste shall be utilized in providing such service.

**§159-4. Duty of Employees.**

The Town Supervisor or, at the Town Supervisor's option, any department head appointed by the Town Supervisor, is authorized to develop policies to ensure Town employees are familiar with the provisions of this chapter and take such steps as are directed by the Town Supervisor or such department head to ensure a diligent effort by the Town that materials supplied to the Town or used on Town roads or property comply with this chapter. This section shall not excuse noncompliance by a contractor or vendor of the Town.

**§159-5. Penalties for offenses.**

Any violation of §159-2 herein shall be an unclassified misdemeanor punishable by a fine no less than \$2000 nor more than \$30,000 per violation and/or up to 90' days imprisonment,

or both. Each sale and/or application of natural gas waste shall constitute a separate and distinct violation.

**§159-6. Severability.**

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provisions so adjudged to be invalid or unconstitutional.

**SECTION 3. Authority.**

The proposed Local Law is enacted pursuant to General Municipal Law §806, as well as Municipal Home Rule Law §10(1)(ii)(a)(1).

**SECTION 4. Severability.**

If any section or subsection, paragraph, clause, phrase, or provision of this law shall be judged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

**SECTION 5. Effective Date.**

This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized to publish the following Notice of Adoption:

**NOTICE OF ADOPTION**

PLEASE TAKE NOTICE that, after a public hearing was held by the Town Board of the Town of Southampton on April 22, 2014, the Town Board, at their meeting of April 22, 2014, adopted LOCAL LAW NO. OF 2014 as follows: "A LOCAL LAW enacting Town Code Chapter 159 (Hydraulic Fracturing) prohibiting activities with respect to the sale, application and disposal of waste associated with natural gas exploration and extraction activities."

Summary of Proposed Law

The DEC currently permits the use of produced water from low-volume hydraulic fracturing operations for road spreading as a de-icer or for dust control if the road spreader obtains a Beneficial Use Determination (BUD) from the DEC. Moreover, the Revised Draft Supplemental Generic Environmental Impact Statement on Oil, Gas and Solution Mining Regulatory Program leaves open the possibility of spreading produced water from high-volume hydraulic fracturing on roads pending further study of its radioactive ingredients. The Town Board has been informed that the application of such waste water, which contains radioactive materials, upon the roadways and real property located within the Town of Southampton may pose a health and environmental risk to our residents, natural resources, bays and waterways and should therefore be prohibited.

Copies of the proposed local law, sponsored by Councilman Bradley Bender are on file in the

Town Clerk's Office, Monday through Friday, from 8:30 a.m. to 4:00 p.m.

BY ORDER OF THE TOWN BOARD  
 TOWN OF SOUTHAMPTON, NEW YORK  
 SUNDY A. SCHERMEYER, TOWN CLERK

**Financial Impact:**

None

Vote Record - Town Board Resolution 2014-550						
		Yes/Aye	No/Nay	Abstain	Absent	
Adopted	Anna Throne-Holst					
Adopted as Amended	Bradley Bender					
Defeated	Christine Preston Scalera					
Tabled	Bridget Fleming					
Withdrawn	Stan Glinka					
Failed To Move						

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**Town Board Resolution 2014-551**

**Category:** Miscellaneous  
**Sponsors:** Councilwoman Christine Preston Scalera  
**Department:** Town Attorney

**Accept the Donation of the Hurricane Educational Foundation, Inc.**

WHEREAS, the Hurricane Educational Foundation, Inc., (the "Foundation") is an independent, not-for-profit, community-based organization whose purpose is to attract and distribute resources and funding to support capital projects and innovative educational programs for all students in the Westhampton Beach School District; and

WHEREAS, in furtherance of these efforts, the Foundation has offered to donate a greenhouse, approximately 22 feet by 40 feet, to the Town of Southampton; and

WHEREAS, in particular, said greenhouse will be placed on the Town-owned property located at 395 Mill Road, in the hamlet of Westhampton Beach, in furtherance of working to develop an educational program, in conjunction with the Westhampton Beach School District, to develop and incorporate said greenhouse into the school's curriculum so that its students may participate and learn valuable skills; and

WHEREAS, the Town is interested in partnering with the Foundation and the Westhampton Beach School District to facilitate this vision; and

WHEREAS, indeed, the Town, the Foundation, and the Westhampton Beach School District recognize that a greenhouse can serve as an outdoor classroom, teaching students important skills such as practical math, communication, responsibility, and cooperation, while also allowing students to experience the value of community, stewardship, and environmental responsibility; now therefore be it

RESOLVED, that the Town Board of the Town of Southampton hereby accepts the donation of the Hurricane Educational Foundation, Inc., with gratitude, for placement at 395 Mill Road, in the hamlet of Westhampton, and in furtherance of a cooperative agreement with the Westhampton Beach School District for a curriculum-based greenhouse program.