



Model Ordinance: Waste from Hydraulic Fracturing Prohibition

Model ordinances are developed through the collaborative efforts of CCM members, staff and outside counsel for a municipality's consideration. CCM recommends that a municipality consult with their municipal attorney before proceeding and enacting an ordinance prohibiting the storage, disposal or use of waste from hydraulic fracturing.

TOWN OF _____

ORDINANCE PROHIBITING THE UNLAWFUL STORAGE, DISPOSAL OR USE OF WASTE FROM HYDRAULIC FRACTURING.

I. PURPOSE

Consistent with Conn. Gen. Stat. § 22a-472, et seq., as the same may be amended from time to time, the purpose of this ordinance is to protect the health, safety and general welfare of the public by prohibiting the unlawful use and storage of Waste from Hydraulic Fracturing within the Town.

II. DEFINITIONS

- (1) "Dispose" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any Waste from Hydraulic Fracturing, or any constituent of such Waste from Hydraulic Fracturing, into or on any land or water within the Town;
- (2) "Fluid" means any material or substance that flows or moves whether in semisolid, liquid, sludge, slurry, gas or any other form or state;
- (3) "Gas" means all natural gas, whether hydrocarbon or non-hydrocarbon, including, but not limited to, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen and casing head gas;
- (4) "Oil" means all petroleum or crude oil that is a naturally-occurring flammable mixture of hydrocarbons found in geological formations;
- (5) "Hydraulic Fracturing" means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for exploration, development, production or recovery of gas or oil. "Hydraulic fracturing" does not include the drilling or repair of a geothermal water well or any other well drilled or repaired for drinking water purposes;
- (6) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency or political or administrative subdivision of the state;
- (7) "Radioactive materials" means any material, solid, liquid or gas, including, but not limited to, waste that emits ionizing radiation spontaneously;
- (8) "Store" means holding Waste from Hydraulic Fracturing for any period of time, be it temporary, intermediate, long term or indefinite;

- (9) "Transfer" means to move from one vehicle to another or to move from one mode of transportation to another;
- (10) "Treat" means any method, technique or process designed to change the physical, chemical or biological character or composition of any Waste from Hydraulic Fracturing, including, but not limited to, the reclaiming or rendering of Waste from Hydraulic Fracturing as suitable for use or reuse; and
- (11) "Waste from Hydraulic Fracturing" means any wastewater, wastewater solids, brine, sludge, drill cuttings or any other substance used for or generated secondarily to the purpose of hydraulic fracturing.

III. PROHIBITIONS

- a) No person may accept, receive, collect, store, treat, transfer or dispose of any Waste from Hydraulic Fracturing within the Town.
- b) No person may sell, offer for sale, offer, barter, manufacture, distribute or use any product for anti-icing, de-icing, pre-wetting or dust suppression that is derived from or that contains Waste from Hydraulic Fracturing unless such product is approved for use by the Connecticut DEEP.
- c) Nothing in this ordinance is intended to prohibit the use of oil and gas products that may contain Waste from Hydraulic Fracturing as incidental to the necessary use of such oil or gas products for road or driveway resurfacing and/or other similar construction and/or manufacturing processes, as long as such products are not prohibited for the intended use by the Connecticut DEEP.

IV. ENFORCEMENT

The Selectmen's (Town Manager's) Office is empowered, either by itself or through a duly authorized agent, to issue "Cease and Desist" orders in the case of any infraction of this ordinance. Such office or officer is further empowered to seek injunctive relief from a court of law, including but not limited to, a court order requiring remediation of any damage done to any land, road, building, aquifer, well, watercourse, air quality or other asset within the Town, be it public or private. The Town shall be entitled to recoup all costs, including reasonable expert and attorney's fees, incurred in enforcing this ordinance and/or its remediation efforts. Such office or agent also may issue citations and may impose fines in the amount of \$250 per violation. Each day of a continuing violation of this ordinance shall be deemed a separate violation for purposes of assessing such fines and penalties.