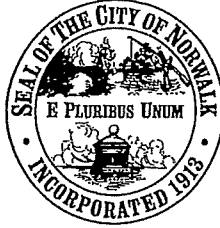


CITY OF NORWALK

LAW DEPARTMENT

CITY HALL
125 EAST AVENUE, P.O. BOX 5125
NORWALK, CONNECTICUT 06856-5125



TEL: (203) 854-7750
FAX: (203) 854-7901

COMMON COUNCIL ORDINANCE COMMITTEE

REGULAR MEETING

July 18, 2017
7:00 p.m. – Room 231
Norwalk City Hall-125 East Avenue
Norwalk, CT

AGENDA

1. **ROLL CALL**
2. **PUBLIC HEARING (possible action on):** Bike-Walk Ordinance
3. **PUBLIC HEARING DISCUSSION**
4. **PUBLIC COMMENT**
5. **ACCEPTANCE OF MINUTES:** June 20, 2017
6. **OLD BUSINESS (possible action on):**
7. **NEW BUSINESS: (possible action on):** Norwalk Shorehaven Special Services
Taxing District

DPW Snow and Ice Removal

Fracking Waste
8. **DISCUSSION ITEM:**
9. **ADJOURNMENT**

Bike-Walk Advisory Commission

Chapter ____ . Bike/Walk Advisory Commission

§ ____ . Composition.

The Bike/Walk Advisory Commission shall be composed of seven members to be nominated by the Mayor and approved by the Common Council. The minimum qualifications for membership are that an individual must live in Norwalk. The Mayor shall designate one of the seven members as Chairman. Each member of the Commission shall be appointed for a term of three years, and terms shall be staggered. The terms of the initial members shall be as follows: two members with terms to expire June 30, 2018; three members with a term to expire June 30, 2019; and two members with terms to expire June 30, 2020. Thereafter, the terms for all members shall be for three years commencing on July 1st. The Commission may, upon a majority vote, request that the Mayor remove any member who is absent from three or more meetings in any twelve month period. Any vacancy shall be filled by the Mayor with the approval of the Common Council for the unexpired term of the member whose place shall become vacant. Members shall serve without compensation.

The Directors of the Planning & Zoning, Public Works, and Health Departments, the Executive Director of the Redevelopment Agency, and the Police Chief, or their respective designees, shall each serve ex officio without a vote. Staff support shall be provided by the Public Works and Health Departments.

§ ____ . Purpose.

A. The Bike/Walk Advisory Commission supports bicycling and walking as safe, accessible, and sustainable forms of transportation and recreation that increase Norwalk's livability and economic vitality, and improve public and environmental health.

B. The purpose of the Commission shall be to:

- (1) Promote Complete Streets programs and facilities for bicycles and pedestrians in Norwalk;
- (2) Review, promote, and update Norwalk's Master Bicycle Plan;
- (3) Review, promote, and update Norwalk's Pedestrian Plan;
- (4) Review and provide advice in the implementation of the transportation component of the Plan of Conservation and Development; and
- (5) Review and provide advice on transportation and other projects having an impact on walking and biking in Norwalk from the earliest stage possible.
- (6) The Commission shall provide annual reports to the Common Council of the City of Norwalk to summarize the Commission's work over the course of the year and to identify key policy issues affecting the safety of and access for bicyclists and pedestrians in Norwalk.

C. The Commission may also:

(1) Coordinate and promote public awareness campaigns, education, and events related to bicycle and pedestrian issues; and

(2) Conduct research and seek grants in furtherance of its purpose.

D. In no event shall the acts or proposed acts of this Commission conflict with the lawful designated duties of any other body or Commission of the City of Norwalk.

**Draft Meeting Minutes from
06/20/2017 Ordinance
Committee Meeting**

**CITY OF NORWALK
ORDINANCE COMMITTEE
REGULAR MEETING
JUNE 20, 2017**

ATTENDANCE: Eloisa Melendez, Chair; Thomas Livingston;
Shannon O' Toole Giandurco; Travis Simms (8:03 p.m.)

STAFF: Mario Coppola, Corporation Counsel

OTHERS: Timothy Callahan, Health Director; Nancy Rosetti, Bike-Walk
Task Force Chair

ROLL CALL

Ms. Melendez called the meeting to order at 8:00 p.m.

PUBLIC HEARING

There was no public hearing this evening.

PUBLIC HEARING DISCUSSION

There was no discussion this evening.

PUBLIC COMMENT

There were no members of the public present this evening.

Mr. Simms joined the meeting at 8:03 p.m.

ACCEPTANCE OF MINUTES

May 16, 2017

**** MS. O'TOOLE GIANDURCO MOVED TO ACCEPT THE MINUTES AS
PRESENTED
** MOTION PASSED UNANIMOUSLY**

OLD BUSINESS

Noise

The Committee members reviewed the two options for the retention of an acoustical expert, Bennett Brooks and Eric Zwerling.

- ** MR. LIVINGSTON MOVED TO FORWARD TO THE FULL COMMON COUNCIL, THE AGREEMENT WITH THE NOISE CONSULTANCY, LLC FOR AN ALL-INCLUSIVE PRICE OF \$95,000, PENDING FINANCE DEPARTMENT APPROVAL**
- ** MOTION PASSED UNANIMOUSLY**

Bike-Walk Advisory Committee

The Committee members discussed the Ordinance and made revisions.

- ** MR. LIVINGSTON MOVED TO HOLD A PUBLIC HEARING AT THE NEXT REGULAR MEETING OF THE ORDINANCE COMMITTEE ON THE PROPOSED BIKE-WALK ORDINANCE, AS AMENDED**
- ** MOTION PASSED UNANIMOUSLY**

NEW BUSINESS

There was no new business discussed this evening.

ADJOURNMENT

- ** MS. O'TOOLE GIANDURCO MOVED TO ADJOURN**
- ** MOTION PASSED UNANIMOUSLY**

There was no further business and the meeting was unanimously adjourned at 8:20 p.m.

Respectfully submitted,

Rosemarie Lombardi
Telesco Secretarial Services

Norwalk Shorehaven Special Services Taxing District

MEMORANDUM TO FILE

Date: July 10, 2017

From: Brian Candela

RE: **Norwalk Shorehaven Special Services Taxing District for the July 18, 2017 committee meeting**

1) Proposed name change for the Norwalk Shorehaven Special Services Taxing District

Enclosed please find an April 11, 2017 letter from Colin B. Connor, Esq., counsel for the Norwalk Shorehaven Special Services Taxing District for your file and review. This letter provides a summary of this taxing district and the reason it is seeking a name change. Please note that the tax district is only seeking a name change to The Canfield Island Special Services Taxing District. The taxing district does not want to change anything else in the ordinance, including but not limited to the taxing district's form, function or size.

On December 9, 1986, the Common Council approved an ordinance which established the Norwalk Shorehaven Special Services Taxing District.



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Of Counsel

Vanessa R. Wambolt
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Associate

Leah M. Parisi
Leah@russoassoc.com
Associate

Colin B. Connor
Colin@russoassoc.com
Associate (also admitted in GA)

April 11, 2017

Chairwoman Eloisa Melendez
Norwalk Ordinance Committee
125 East Avenue
Norwalk, CT 06851
BY USPS

Re: The Norwalk Shorehaven Special Services Taxing District – Proposed Name Change

Chairwoman Melendez,

I represent The Norwalk Shorehaven Special Services Taxing District which is located on Canfield Island in Norwalk. Our firm was retained to review, revise and update the operating documents for the entity. In the process, the Members decided to change the name of the taxing district.

Attorney Brian McCann, whom I have been discussing the name change with for several months now, instructed me to prepare this letter to you in order to lay out the relevant details.

1. **Area of Taxing District** – the area composing the taxing district is located on what is commonly known as 'Canfield Island.' The majority of the properties lay in the City of Norwalk, however there are a few properties on the Westport side of the Island which also participate in the taxing district. Those homeowners with properties lying with the Town of Westport's geographical boundaries have consented, in writing, to the inclusion of their properties in the special services taxing district. A specific list of the properties composing the district is enclosed with this letter, including an indication of which are located in Westport.
2. **Purpose of Taxing District** – the purpose of the taxing district is to maintain all of the infrastructure necessary for life on Canfield Island, including the roads, drains, sewers, etc., but most specifically to maintain the bridge which allows access to the Island.
3. **Commonly Owned Property and Shared Services** – the only property commonly owned by the District is the bridge from the mainland onto Canfield Island. The roads and other common property on the Island is owned by a separate Association, rather than the District. The District does not provide any 'shared services' to its Members.
4. **Reason for Name Change** – at present, there is a separate entity known as The Norwalk Shorehaven Association, Inc. The similarity between the names has caused confusion in the past, which has led to some consternation because the membership dues for each entity

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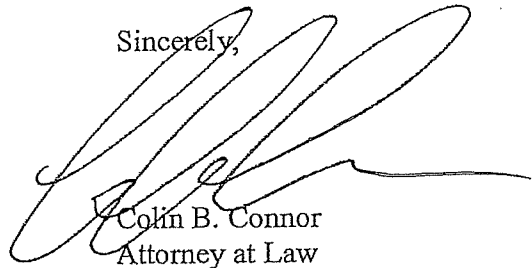
Tel 203-309-5500
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are wildly different given the District's obligation to maintain the bridge. After engaging our firm to review, revise and update the governing documents for each entity, the Members decided that they would like to address the confusion regarding the names of the entities. The Members of the District proposed that the District's name be changed, and this proposal was approved pursuant to the requirements set forth in its Bylaws.

5. **The Name Change Itself** – the Members have resolved to change the name of the taxing district from The Norwalk Shorehaven Special Services Taxing District to **The Canfield Island Special Services Taxing District**.
6. **Approval of Name Change** – the proposal to change the name of the District was voted on approved by the Members on January 15, 2017 at a Special Meeting of the Members called for the specific purpose of approving the revisions made to the District's Bylaws, including the revision to its name.

Please contact me with any questions you may have and with any further instructions on how to proceed with the official name change, including any requirements which we have not met. Our office number is 203-254-7579, and my email address is colin@russoassoc.com

Sincerely,

A handwritten signature in black ink, appearing to read 'Colin B. Connor', with a long horizontal flourish extending to the right.

Colin B. Connor
Attorney at Law

Encl.

**Owners and Users of Real Property Within
The Norwalk Shorehaven Special Services Taxing District (as of 10/2016)**

Member Name	Member Address
Gordan, John, III	54 Shorehaven Road, Norwalk, CT (located in Westport)
McFadden, Edith Sara and Michael	52 Shorehaven Road, Norwalk, CT (located in Westport)
Schnirring, Luke	50 Shorehaven Road, Norwalk, CT (located in Westport)
Vernhes, Monique and Michel	48 Shorehaven Road, Norwalk, CT (located in Westport)
46 Shorehaven Road, LLC c/o Jonathan Farber, its Managing Member	46 Shorehaven Road, Norwalk, CT (located in Westport)
Farber, Jonathan	43 and 44 Shorehaven Road, Norwalk, CT (located in Westport)
Farber, Jonathan and Swanson, Jolyn	42 Shorehaven Road, Norwalk, CT (located in Westport)
Williams, David	38 and 40 Shorehaven Road, Norwalk, CT (40 Shorehaven located in Westport)
Hapworth, Mada and William	36 Shorehaven Road, Norwalk, CT
Smith, David	34 Shorehaven Road, Norwalk, CT
Greenlee, Adam, Sr.	32 Shorehaven Road, Norwalk, CT
Gray, Joan	30 Shorehaven Road, Norwalk, CT
Brown Shiverick, Margaret	29 Shorehaven Road, Norwalk, CT

DPW – Snow and Ice Removal

MEMORANDUM TO FILE

Date: July 10, 2017

From: Brian Candela

RE: Snow & Ice Removal for the July 18, 2017 committee meeting

- 1) Proposed name change of 95-10 from snow and ice removal from sidewalks to snow and ice removal from sidewalks and driveways
- 2) Proposed changes to Section 95-10 (snow and ice removal from sidewalks)
 - a. 95-10E

Original language from 95-10E: Whenever the public sidewalk shall be wholly or partially covered by snow or ice, it shall be the duty of the owner or person in possession and control of land abutting a public sidewalk to cause such sidewalk to be made safe and convenient by removing snow therefrom within the first 24 hours ...

Proposed language from DPW: Whenever the public sidewalk shall be wholly or partially covered by snow or ice, it shall be the duty of the owner and occupant, jointly, of every parcel of real estate joining a public sidewalk, whether the parcel of real estate is occupied by a structure or not, to keep such sidewalks adjoining such property free from snow and ice for the full paved width of such sidewalk within the first 24 hours ...

My recommended changes: Whenever the public sidewalk shall be wholly or partially covered by snow or ice, it shall be the duty of the owner or person in possession and control of land abutting a public sidewalk, whether the parcel land is occupied by a structure or not, to cause such sidewalk to be made safe and convenient by removing snow from the full paved width of such sidewalk within the first 24 hours ...

- 3) Proposed changes to Section 95-10 (snow and ice removal from sidewalks)
 - a. 95-10F

Proposed language from DPW: No person, firm or corporation shall deposit, throw, place or strew, nor shall any person, firm, or corporation cause to be deposited, thrown, placed or strewn, any snow or ice upon any street, avenue, sidewalk, or roadway within the City. Any person who fails or neglects to comply with this subsection shall also be liable for a penalty or fine in an amount established in accordance with section 90-4, Approval of rates and fees.

My recommended changes: No person, firm or corporation shall deposit, throw, place or strew, nor shall any person, firm, or corporation cause to be deposited, thrown, placed or strewn, any snow or ice upon any streets, avenues, roadways, highways or sidewalks within the City. Any person who fails or neglects to comply with this subsection shall also be liable for a penalty or fine in an amount established in accordance with section 90-4, Approval of rates and fees.

- 4) State law supports Norwalk's shift of responsibility and liability for snow/ice on public sidewalks

Municipalities have a common law duty to keep streets and sidewalks in a reasonably safe condition. However, Connecticut General Statutes § 7-148 is entitled "Scope of Municipal Powers" and involves a shift in responsibility for maintenance of public sidewalks. Connecticut General Statutes § 7-148(c)(6)(C)(v) requires

owners or occupants of land adjacent to any sidewalk or public work to remove snow, ice, sleet, debris or any other obstruction therefrom, provide penalties upon their failure to do so, and cause such snow, ice, sleet, debris or other obstruction to be removed and make the cost of such removal a lien on such property. In 1981, the state legislature gave municipalities the additional power to shift liability for damages (Connecticut General Statutes § 7-163a is entitled "Municipal liability for ice and snow on public sidewalks"). Connecticut General Statutes § 7-163a(b) allows Norwalk, by way or ordinance, to shift liability to the owner of land abutting a public sidewalk, unless Norwalk is the abutting landowner or if it takes affirmative acts with respect to such public sidewalk. Connecticut General Statutes § 7-163a(c) provides that the abutting landowner has the same duty of care as Norwalk had prior to the enactment of the ordinance (Section 95-10). In the absence of such ordinance, a landowner abutting a public sidewalk is ordinarily not responsible for keeping the sidewalk in a reasonably safe condition for public travel. Tenney v. Pleasant Real Estate, 136 Conn. 325 (1949).

Neither the statutes nor regulations specify how soon after the snow stops a homeowner must clear his sidewalk. However, there are several court cases that address the issue with regard to municipalities that have not transferred snow shoveling responsibilities and associated liability to property owners. Cusick v. City of New Haven, 148 Conn. 548 (1961) (city was not liable for a pedestrian fall down at 6:45 a.m. following a nighttime storm because it did not have enough time to become aware of the dangerous condition and remedy it); Schroeder v. City of Hartford, 104 Conn. 334 (1926) (city found liable as it had adequate notice of the icy sidewalks which had been frozen for 5 days).

State law also does not prescribe how wide a path a homeowner must clear on his sidewalk. However, before the law was amended to allow municipalities to transfer liability for snow and ice accidents to property owners, the courts have found that the municipalities had to take reasonable care to make sure that sidewalks are reasonably safe. Since Norwalk has transferred responsibility and liability to abutting landowners, they have the same duty of care as Norwalk had before the ordinance was enacted. See Connecticut General Statutes § 7-163a.

5) Other municipalities have established similar ordinances

Municipalities throughout Connecticut have shifted both responsibility and liability to the owner of property abutting a public sidewalk. Enclosed please find a list of some of those municipalities:

Ordinances:

Ansonia, Danbury, Derby, Hartford, Middletown, New Haven, New London, Norwich, Westport, Wilton

Policies:

Branford, Bristol, Colchester, Southbury, Windsor

Municipalities throughout Connecticut have made it illegal to move snow into the street as well. Enclosed please find a list of some of those municipalities:

Ordinances: Branford, Hartford, New Haven, New London

Policies: Branford, Bristol, Colchester, Windsor

Brian Candela's recommended changes:

§95-10 Snow and ice removal from sidewalks and driveways

A.

The provisions of Section 7-163a of the Connecticut General Statutes are hereby adopted and are set forth in Subsections B, C and D hereof.

B.

Notwithstanding the provisions of Section 13a-149 of the Connecticut General Statutes or any other general or special act, the City shall not be liable to any person for injury to person or property due to the presence of ice or snow on a public sidewalk unless the City is the owner of person in possession and control of land abutting such sidewalk, other than land used as a highway or street, provided that the City shall be liable for its affirmative acts with respect to any such sidewalk under its possession and control.

C.

The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the City had prior to the effective date of this article and shall be liable to persons injured in person or property where a breach of said duty is the proximate cause of said injury.

D.

No action to recover damages for injury to person or property caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.

E.

Whenever the public sidewalk shall be wholly or partially covered by snow or ice, it shall be the duty of the owner or person in possession and control of land abutting a public sidewalk, whether the parcel land is occupied by a structure or not, to cause such sidewalk to be made safe and convenient by removing snow from the full paved width of such sidewalk within the first 24 hours immediately following the accumulation of such snow thereon or, in the case of ice, by covering the same with sand, salt, chemical ice melt or other suitable material within the first 24 hours following the accumulation of such ice, and then renewing such treatment as often as may be necessary to keep such sidewalk safe and convenient. In case of the failure or neglect of the owner or person in possession and control of land abutting the public sidewalk to comply with this subsection, the Director may cause the same to be done, and the expense thereof shall be collectible from the person so failing or neglecting, in an action of debt brought in the name of the City under this section. Any person who fails or neglects to comply with this subsection shall also be liable for a penalty or fine in an amount established in accordance with §90-4, Approval of rates and fees.

F.

No person, firm or corporation shall deposit, throw, place or strew, nor shall any person, firm, or corporation cause to be deposited, thrown, placed or strewn, any snow or ice upon any streets, avenues, roadways, highways or sidewalks within the City. Any person who fails or neglects to comply with this subsection shall also be liable for a penalty or fine in an amount established in accordance with section 90-4, Approval of rates and fees.

DPW recommended changes:

§95-10 Snow and ice removal from sidewalks and driveways

A.

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C.

The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the City had prior to the effective date of this article and shall be liable to persons injured in person or property where a breach of said duty is the proximate cause of said injury.

D.

No action to recover damages for injury to person or property caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.

E.

Whenever the public sidewalk shall be wholly or partially covered by snow or ice, ~~it shall be the duty of the owner or person in possession and control of land abutting a public sidewalk to cause such sidewalk to be made safe and convenient by removing the snow therefrom~~ **it shall be the duty of the owner and occupant, jointly, of every parcel of real estate adjoining a public sidewalk, whether the parcel of real estate is occupied by a structure or not, to keep such sidewalks adjoining such property free from snow and ice for the full paved width of such sidewalk** within the first 24 hours immediately following the accumulation of such snow thereon or, in the case of ice, by covering the same with sand, salt, chemical ice melt or other suitable material within the first 24 hours following the accumulation of such ice, and then renewing such treatment as often as may be necessary to keep such sidewalk safe and convenient. In case of the failure or neglect of the owner or person in possession and control of land abutting the public sidewalk to comply with this subsection, the Director may cause the same to be done, and the expense thereof shall be collectible from the person so failing or neglecting, in an action of debt brought in the name of the City under this section. Any person who fails or neglects to comply with this subsection shall also be liable for a penalty or fine in an amount established in accordance with §90-4, Approval of rates and fees.

F.

No person, firm or corporation shall deposit, throw, place or strew, nor shall any person, firm, or corporation cause to be deposited, thrown, placed or strewn, any snow or ice upon any street, avenue, sidewalk, or roadway within the City. Any person who fails or neglects to comply with this subsection shall also be liable for a penalty or fine in an amount established in accordance with §90-4, Approval of rates and fees.

City of Norwalk, CT
Friday, February 3, 2017

Chapter 95. Streets and Sidewalks

Article I. Maintenance; Acceptance; Abandonment

§ 95-10. Snow and ice removal from sidewalks.

- A. The provisions of Section 7-163a of the Connecticut General Statutes are hereby adopted and are set forth in Subsections B, C and D hereof.
- B. Notwithstanding the provisions of Section 13a-149 of the Connecticut General Statutes or any other general or special act, the City shall not be liable to any person for injury to person or property due to the presence of ice or snow on a public sidewalk unless the City is the owner or person in possession and control of land abutting such sidewalk, other than land used as a highway or street, provided that the City shall be liable for its affirmative acts with respect to any such sidewalk under its possession and control.
- C. The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the City had prior to the effective date of this article and shall be liable to persons injured in person or property where a breach of said duty is the proximate cause of said injury.
- D. No action to recover damages for injury to person or property caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.
- E. Whenever the public sidewalk shall be wholly or partially covered by snow or ice, it shall be the duty of the owner ~~or person in possession and control~~ of land abutting a public sidewalk to cause such sidewalk to be made safe and convenient by removing the snow therefrom within the first 24 hours immediately following the accumulation of such snow thereon or, in the case of ice, by covering the same with sand, salt, chemical ice melt or other suitable material within the first 24 hours following the accumulation of such ice, and then renewing such treatment as often as may be necessary to keep such sidewalk safe and convenient. In case of the failure or neglect of the owner or person in possession and control of land abutting the public sidewalk to comply with this subsection, the Director may cause the same to be done, and the expense thereof shall be collectible from the person so failing or neglecting, in an action of debt brought in the name of the City under this section. Any person who fails or neglects to comply with this subsection shall also be liable for a penalty or fine in an amount established in accordance with § 90-4, Approval of rates and fees.

Connecticut General Statutes Annotated Title 7. Municipalities Chapter 98. Municipal Powers (Refs & Annos)
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C.G.S.A. § 7-163a

§ 7-163a. Municipal liability for ice and snow on public sidewalks

Currentness

(a) Any town, city, borough, consolidated town and city or consolidated town and borough may, by ordinance, adopt the provisions of this section.

(b) Notwithstanding the provisions of section 13a-149 or any other general statute or special act, such town, city, borough, consolidated town and city or consolidated town and borough shall not be liable to any person injured in person or property caused by the presence of ice or snow on a public sidewalk unless such municipality is the owner or person in possession and control of land abutting such sidewalk, other than land used as a highway or street, provided such municipality shall be liable for its affirmative acts with respect to such sidewalk.

(c) (1) The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the municipality had prior to the effective date of any ordinance adopted pursuant to the provisions of this section and shall be liable to persons injured in person or property where a breach of said duty is the proximate cause of said injury. (2) No action to recover damages for injury to the person or to property caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.

Credits

(1981, P.A. 81-340.)

Notes of Decisions (7)

C. G. S. A. § 7-163a, CT ST § 7-163a

The statutes and Constitution are current with enactments of the 2016 February Regular Session, the 2016 May Special Session, and the 2016 September Special Session.

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Connecticut General Statutes Annotated Title 7. Municipalities Chapter 98. Municipal Powers (Refs & Annos)
--

C.G.S.A. § 7-148

§ 7-148. Scope of municipal powers

Effective: October 1, 2016

Currentness

(a) **Definitions.** Whenever used in this section, “municipality” means any town, city or borough, consolidated town and city or consolidated town and borough.

(b) **Ordinances.** Powers granted to any municipality under the general statutes or by any charter or special act, unless the charter or special act provides to the contrary, shall be exercised by ordinance when the exercise of such powers has the effect of:

(1) Establishing rules or regulations of general municipal application, the violation of which may result in the imposition of a fine or other penalty including community service for not more than twenty hours; or

(2) Creating a permanent local law of general applicability.

(c) **Powers.** Any municipality shall have the power to do any of the following, in addition to all powers granted to municipalities under the constitution and general statutes:

(1) **Corporate powers.** (A) Contract and be contracted with, sue and be sued, and institute, prosecute, maintain and defend any action or proceeding in any court of competent jurisdiction;

(B) Provide for the authentication, execution and delivery of deeds, contracts, grants, and releases of municipal property and for the issuance of evidences of indebtedness of the municipality;

(2) **Finances and appropriations.** (A) Establish and maintain a budget system;

(B) Assess, levy and collect taxes for general or special purposes on all property, subjects or objects which may be lawfully taxed, and regulate the mode of assessment and collection of taxes and assessments not otherwise provided for, including establishment of a procedure for the withholding of approval of building application when taxes or water or sewer rates, charges or assessments imposed by the municipality are delinquent for the property for which an application was made;

(C) Make appropriations for the support of the municipality and pay its debts;

(D) Make appropriations for the purpose of meeting a public emergency threatening the lives, health or property of citizens, provided such appropriations shall require a favorable vote of at least two-thirds of the entire membership of the legislative body or, when the legislative body is the town meeting, at least two-thirds of those present and voting;

(E) Make appropriations to military organizations, hospitals, health care facilities, public health nursing organizations, nonprofit museums and libraries, organizations providing drug abuse and dependency programs and any other private organization performing a public function;

(F) Provide for the manner in which contracts involving unusual expenditures shall be made;

(G) When not specifically prescribed by general statute or by charter, prescribe the form of proceedings and mode of assessing benefits and appraising damages in taking land for public use, or in making public improvements to be paid for, in whole or in part, by special assessments, and prescribe the manner in which all benefits assessed shall be collected;

(H) Provide for the bonding of municipal officials or employees by requiring the furnishing of such bond, conditioned upon honesty or faithful performance of duty and determine the amount, form, and sufficiency of the sureties thereof;

(I) Regulate the method of borrowing money for any purpose for which taxes may be levied and borrow on the faith and credit of the municipality for such general or special purposes and to such extent as is authorized by general statute;

(J) Provide for the temporary borrowing of money;

(K) Create a sinking fund or funds or a trust fund or funds or other special funds, including funds which do not lapse at the end of the municipal fiscal year;

(L) Provide for the assignment of municipal tax liens on real property to the extent authorized by general statute;

(3) **Property.** (A) Take or acquire by gift, purchase, grant, including any grant from the United States or the state, bequest or devise and hold, condemn, lease, sell, manage, transfer, release and convey such real and personal property or interest therein absolutely or in trust as the purposes of the municipality or any public use or purpose, including that of education, art, ornament, health, charity or amusement, cemeteries, parks or gardens, or the erection or maintenance of statues, monuments, buildings or other structures, require. Any lease of real or personal property or any interest therein, either as lessee or lessor, may be for such term or any extensions thereof and upon such other terms and conditions as have been approved by the municipality, including without limitation the power to bind itself to appropriate funds as necessary to meet rent and other obligations as provided in any such lease;

(B) Provide for the proper administration of gifts, grants, bequests and devises and meet such terms or conditions as are prescribed by the grantor or donor and accepted by the municipality;

(4) **Public services.** (A) Provide for police protection, regulate and prescribe the duties of the persons providing police protection with respect to criminal matters within the limits of the municipality and maintain and regulate a suitable place of detention within the limits of the municipality for the safekeeping of all persons arrested and awaiting trial and do all other things necessary or desirable for the policing of the municipality;

(B) Provide for fire protection, organize, maintain and regulate the persons providing fire protection, provide the necessary apparatus for extinguishing fires and do all other things necessary or desirable for the protection of the municipality from fire;

(C) Provide for entertainment, amusements, concerts, celebrations and cultural activities, including the direct or indirect purchase, ownership and operation of the assets of one or more sports franchises;

(D) Provide for ambulance service by the municipality or any person, firm or corporation;

(E) Provide for the employment of nurses;

(F) Provide for lighting the streets, highways and other public places of the municipality and for the care and preservation of public lamps, lamp posts and fixtures;

(G) Provide for the furnishing of water, by contract or otherwise;

(H) Provide for or regulate the collection and disposal of garbage, trash, rubbish, waste material and ashes by contract or otherwise, including prohibiting the throwing or placing of such materials on the highways;

(I) Provide for the financing, construction, rehabilitation, repair, improvement or subsidization of housing for low and moderate income persons and families;

(5) **Personnel.** (A) Provide for and establish pension systems for the officers and employees of the municipality and for the active members of any volunteer fire department or any volunteer ambulance association of the municipality, and establish a system of qualification for the tenure in office of such officers and employees, provided the rights or benefits granted to any individual under any municipal retirement or pension system shall not be diminished or eliminated;

(B) Establish a merit system or civil service system for the selection and promotion of public officials and employees. Nothing in this subparagraph shall be construed to validate any merit system or civil service system established prior to May 24, 1972;

(C) Provide for the employment of and prescribe the salaries, compensation and hours of employment of all officers and employees of the municipality and the duties of such officers and employees not expressly defined by the constitution of the state, the general statutes, charter or special act;

(D) Provide for the appointment of a municipal historian;

(6) **Public works, sewers, highways.** (A) **Public facilities.** (i) Establish, lay out, construct, reconstruct, alter, maintain, repair, control and operate cemeteries, public burial grounds, hospitals, clinics, institutions for children and aged, infirm and chronically ill persons, bus terminals and airports and their accessories, docks, wharves, school houses, libraries, parks, playgrounds, playfields, fieldhouses, baths, bathhouses, swimming pools, gymnasiums, comfort stations, recreation places, public beaches, beach facilities, public gardens, markets, garbage and refuse disposal facilities, parking lots and other off-street parking facilities, and any and all buildings or facilities necessary or convenient for carrying on the government of the municipality;

(ii) Create, provide for, construct, regulate and maintain all things in the nature of public works and improvements;

(iii) Enter into or upon any land for the purpose of making necessary surveys or mapping in connection with any public improvement, and take by eminent domain any lands, rights, easements, privileges, franchises or structures which are necessary for the purpose of establishing, constructing or maintaining any public work, or for any municipal purpose, in the manner prescribed by the general statutes;

(iv) Regulate and protect from injury or defacement all public buildings, public monuments, trees and ornaments in public places and other public property in the municipality;

(v) Provide for the planting, rearing and preserving of shade and ornamental trees on the streets and public grounds;

(vi) Provide for improvement of waterfronts by a board, commission or otherwise;

(B) **Sewers, drainage and public utilities.** (i) Lay out, construct, reconstruct, repair, maintain, operate, alter, extend and discontinue sewer and drainage systems and sewage disposal plants;

(ii) Enter into or upon any land for the purpose of correcting the flow of surface water through watercourses which prevent, or may tend to prevent, the free discharge of municipal highway surface water through said courses;

(iii) Regulate the laying, location and maintenance of gas pipes, water pipes, drains, sewers, poles, wires, conduits and other structures in the streets and public places of the municipality;

(iv) Prohibit and regulate the discharge of drains from roofs of buildings over or upon the sidewalks, streets or other public places of the municipality or into sanitary sewers;

(v) Enter into energy-savings performance contracts;

(C) **Highways and sidewalks.** (i) Lay out, construct, reconstruct, alter, maintain, repair, control, operate, and assign numbers to streets, alleys, highways, boulevards, bridges, underpasses, sidewalks, curbs, gutters, public walks and parkways;

(ii) Keep open and safe for public use and travel and free from encroachment or obstruction the streets, sidewalks and public places in the municipality;

(iii) Control the excavation of highways and streets;

(iv) Regulate and prohibit the excavation, altering or opening of sidewalks, public places and grounds for public and private purposes and the location of any work or things thereon, whether temporary or permanent, upon or under the surface thereof;

(v) Require owners or occupants of land adjacent to any sidewalk or public work to remove snow, ice, sleet, debris or any other obstruction therefrom, provide penalties upon their failure to do so, and cause such snow, ice, sleet, debris or other obstruction to be removed and make the cost of such removal a lien on such property;

(vi) Grant to abutting property owners a limited property or leasehold interest in abutting streets and sidewalks for the purpose of encouraging and supporting private commercial development;

(7) Regulatory and police powers. (A) Buildings.

(i) Make rules relating to the maintenance of safe and sanitary housing;

(ii) Regulate the mode of using any buildings when such regulations seem expedient for the purpose of promoting the safety, health, morals and general welfare of the inhabitants of the municipality;

(iii) Regulate and prohibit the moving of buildings upon or through the streets or other public places of the municipality, and cause the removal and demolition of unsafe buildings and structures;

(iv) Regulate and provide for the licensing of parked trailers when located off the public highways, and trailer parks or mobile manufactured home parks, except as otherwise provided by special act and except where there exists a local zoning commission so empowered;

(v) Establish lines beyond which no buildings, steps, stoop, veranda, billboard, advertising sign or device or other structure or obstruction may be erected;

(vi) Regulate and prohibit the placing, erecting or keeping of signs, awnings or other things upon or over the sidewalks, streets and other public places of the municipality;

(vii) Regulate plumbing and house drainage;

(viii) Prohibit or regulate the construction of dwellings, apartments, boarding houses, hotels, commercial buildings, youth camps or commercial camps and commercial camping facilities in such municipality unless the sewerage facilities have been approved by the authorized officials of the municipality;

(B) **Traffic.** (i) Regulate and prohibit, in a manner not inconsistent with the general statutes, traffic, the operation of vehicles on streets and highways, off-street parking and on-street residential neighborhood parking areas in which on-street parking is limited to residents of a given neighborhood, as determined by the municipality;

(ii) Regulate the speed of vehicles, subject to the provisions of the general statutes relating to the regulation of the speed of motor vehicles and of animals, and the driving or leading of animals through the streets;

(iii) Require that conspicuous signage be posted in any area where a motor vehicle may be subject to towing or to the use of a wheel-locking device that renders such motor vehicle immovable, and that such signage indicate where the motor vehicle will be stored, how the vehicle may be redeemed and any costs or fees that may be charged;

(C) **Building adjuncts.** Regulate and prohibit the construction or use, and require the removal of sinks, cesspools, drains, sewers, privies, barns, outhouses and poultry pens and houses;

(D) **Animals.** (i) Regulate and prohibit the going at large of dogs and other animals in the streets and public places of the municipality and prevent cruelty to animals and all inhuman sports, except that no municipality shall adopt breed-specific dog ordinances;

(ii) Regulate and prohibit the keeping of wild or domestic animals, including reptiles, within the municipal limits or portions thereof;

(E) **Nuisance.** Define, prohibit and abate within the municipality all nuisances and causes thereof, and all things detrimental to the health, morals, safety, convenience and welfare of its inhabitants and cause the abatement of any nuisance at the expense of the owner or owners of the premises on which such nuisance exists;

(F) **Loitering and Trespassing.** (i) Keep streets, sidewalks and public places free from undue noise and nuisances, and prohibit loitering thereon;

(ii) Regulate loitering on private property with the permission of the owner thereof;

(iii) Prohibit the loitering in the nighttime of minors on the streets, alleys or public places within its limits;

(iv) Prevent trespassing on public and private lands and in buildings in the municipality;

(G) Vice. Prevent vice and suppress gambling houses, houses of ill-fame and disorderly houses;

(H) Public health and safety. (i) Secure the safety of persons in or passing through the municipality by regulation of shows, processions, parades and music;

(ii) Regulate and prohibit the carrying on within the municipality of any trade, manufacture, business or profession which is, or may be, so carried on as to become prejudicial to public health, conducive to fraud and cheating, or dangerous to, or constituting an unreasonable annoyance to, those living or owning property in the vicinity;

(iii) Regulate auctions and garage and tag sales;

(iv) Prohibit, restrain, license and regulate the business of peddlers, auctioneers and junk dealers in a manner not inconsistent with the general statutes;

(v) Regulate and prohibit swimming or bathing in the public or exposed places within the municipality;

(vi) Regulate and license the operation of amusement parks and amusement arcades including, but not limited to, the regulation of mechanical rides and the establishment of the hours of operation;

(vii) Prohibit, restrain, license and regulate all sports, exhibitions, public amusements and performances and all places where games may be played;

(viii) Preserve the public peace and good order, prevent and quell riots and disorderly assemblages and prevent disturbing noises;

(ix) Establish a system to obtain a more accurate registration of births, marriages and deaths than the system provided by the general statutes in a manner not inconsistent with the general statutes;

(x) Control insect pests or plant diseases in any manner deemed appropriate;

(xi) Provide for the health of the inhabitants of the municipality and do all things necessary or desirable to secure and promote the public health;

(xii) Regulate the use of streets, sidewalks, highways, public places and grounds for public and private purposes;

(xiii) Make and enforce police, sanitary or other similar regulations and protect or promote the peace, safety, good government and welfare of the municipality and its inhabitants;

(xiv) Regulate, in addition to the requirements under section 7-282b, the installation, maintenance and operation of any device or equipment in a residence or place of business which is capable of automatically calling and relaying recorded emergency messages to any state police or municipal police or fire department telephone number or which is capable of automatically calling and relaying recorded emergency messages or other forms of emergency signals to an intermediate third party which shall thereafter call and relay such emergency messages to a state police or municipal police or fire department telephone number. Such regulations may provide for penalties for the transmittal of false alarms by such devices or equipment;

(xv) Make and enforce regulations for the prevention and remediation of housing blight, including regulations reducing assessments and authorizing designated agents of the municipality to enter property during reasonable hours for the purpose of remediating blighted conditions, provided such regulations define housing blight and require such municipality to give written notice of any violation to the owner and occupant of the property and provide a reasonable opportunity for the owner and occupant to remediate the blighted conditions prior to any enforcement action being taken, and further provided such regulations shall not authorize such municipality or its designated agents to enter any dwelling house or structure on such property, and including regulations establishing a duty to maintain property and specifying standards to determine if there is neglect; prescribe civil penalties for the violation of such regulations of not less than ten or more than one hundred dollars for each day that a violation continues and, if such civil penalties are prescribed, such municipality shall adopt a citation hearing procedure in accordance with section 7-152c;

(xvi) Regulate, on any property owned by the municipality, any activity deemed to be deleterious to public health, including the lighting or carrying of a lighted cigarette, cigar, pipe or similar device;

(8) **The environment.** (A) Provide for the protection and improvement of the environment including, but not limited to, coastal areas, wetlands and areas adjacent to waterways in a manner not inconsistent with the general statutes;

(B) Regulate the location and removal of any offensive manure or other substance or dead animals through the streets of the municipality and provide for the disposal of same;

(C) Except where there exists a local zoning commission, regulate the filling of, or removal of, soil, loam, sand or gravel from land not in public use in the whole, or in specified districts of, the municipality, and provide for the reestablishment of ground level and protection of the area by suitable cover;

(D) Regulate the emission of smoke from any chimney, smokestack or other source within the limits of the municipality, and provide for proper heating of buildings within the municipality;

(9) **Human rights.** (A) Provide for fair housing;

(B) Adopt a code of prohibited discriminatory practices;

(10) (A) Make all lawful regulations and ordinances in furtherance of any general powers as enumerated in this section, and prescribe penalties for the violation of the same not to exceed two hundred fifty dollars, unless otherwise specifically provided by the general statutes. Such regulations and ordinances may be enforced by citations issued by designated

municipal officers or employees, provided the regulations and ordinances have been designated specifically by the municipality for enforcement by citation in the same manner in which they were adopted and the designated municipal officers or employees issue a written warning providing notice of the specific violation before issuing the citation, except that no such written warning shall be required for violations of a municipal ordinance regulating the operation or use of a dirt bike, all-terrain vehicle or mini-motorcycle;

(B) Adopt a code of ethical conduct;

(C) Establish and maintain free legal aid bureaus;

(D) Perform data processing and related administrative computer services for a fee for another municipality;

(E) Adopt the model ordinance concerning a municipal freedom of information advisory board created under subsection (f) of section 1-205 and establish a municipal freedom of information advisory board as provided by said ordinance and said section;

(F) Protect the historic or architectural character of properties or districts that are listed on, or under consideration for listing on, the National Register of Historic Places, 16a USC 470, or the state register of historic places, as defined in section 10-410.

Credits

(1949 Rev., § 619; 1953, Supp. § 197c; 1955, Supp. § 248d; 1957, P.A. 13, § 7; 1957, P.A. 201; 1957, P.A. 354, § 1; 1959, P.A. 359, § 1, eff. June 2, 1959; 1961, P.A. 187; 1961, P.A. 570; 1963, P.A. 434; 1963, P.A. 626; 1965, Feb.Sp.Sess., P.A. 582; 1967, P.A. 126; 1967, P.A. 805, § 3; 1967, P.A. 830; 1969, P.A. 694, § 20, eff. July 1, 1969; 1971, P.A. 389, § 1, eff. May 25, 1971; 1971, P.A. 802, § 1; 1973, P.A. 73-614, § 2, eff. June 17, 1973; 1975, P.A. 75-178, § 1, eff. May 28, 1975; 1976, P.A. 76-32; 1978, P.A. 78-331, § 4, eff. June 6, 1978; 1979, P.A. 79-531, § 1; 1979, P.A. 79-618, § 1; 1980, P.A. 80-403, § 7, eff. May 23, 1980; 1981, P.A. 81-219, § 1, eff. Oct. 1, 1982; 1982, P.A. 82-327, § 5; 1983, P.A. 83-168, § 3; 1983, P.A. 83-188, § 1; 1983, P.A. 83-587, § 78, eff. July 14, 1983; 1984, P.A. 84-232, §§ 1, 2, eff. May 24, 1984; 1986, P.A. 86-97, § 2, eff. May 8, 1986; 1986, P.A. 86-229, §§ 1, 2; 1987, P.A. 87-278, § 1, eff. June 17, 1987; 1988, P.A. 88-213, § 1, eff. July 1, 1988; 1988, P.A. 88-221, § 1; 1983 June Sp.Sess., P.A. 83-3, § 1; 1990, P.A. 90-334, § 1; 1993, P.A. 93-434, § 18, eff. June 30, 1993; 1995, P.A. 95-7; 1995, P.A. 95-320; 1997, P.A. 97-199, § 5, eff. July 1, 1997; 1997, P.A. 97-320, § 4, eff. July 1, 1997; 1998, P.A. 98-188, § 2; 1999, P.A. 99-129; 1999, P.A. 99-188, § 3, eff. June 23, 1999; 2000, P.A. 00-136, § 7, July 1, 2000; 2001, P.A. 01-128, § 1; 2003, P.A. 03-19, § 19, eff. May 12, 2003; 2006, P.A. 06-185, § 7; 2007, P.A. 07-141, § 4, eff. June 25, 2007; 2008, P.A. 08-184, § 34; 2010, P.A. 10-152, § 7; 2011, P.A. 11-80, § 122, eff. July 1, 2011; 2012, P.A. 12-146, § 2; 2013, P.A. 13-103, § 1; 2013, P.A. 13-181, § 1; 2015, P.A. 15-42, § 9; 2015, P.A. 15-100, § 1; 2016, P.A. 16-208, § 3.)

Notes of Decisions (272)

C. G. S. A. § 7-148, CT ST § 7-148

The statutes and Constitution are current with enactments of the 2016 February Regular Session, the 2016 May Special Session, and the 2016 September Special Session.

Fracking Waste

MEMORANDUM TO FILE

Date: July 10, 2017

From: Brian Candela

RE: **Fracking Waste for the July 18, 2017 committee meeting**

1) Enclosed please find Middletown's ordinance concerning Hazardous Waste (Chapter 171) and other documents concerning fracking waste

Pursuant to Middletown's ordinance, a municipality has the right to protect the welfare of its residents pursuant to Connecticut General Statutes §§ 7-148(c)(7)(H), 7-148(c)(4)(H), 7-148(c)(7)(H)(xi), 7-148(c)(8), and 7-148(c)(7)(H)(ii). Their prohibition would concern the application, introduction, storage, disposal, sale, acquisition, transfer, handling, treatment, and/or processing of natural gas or oil waste.

Public Act, 14-200, which took effect on July 1, 2014, established a moratorium on certain activities associated with fracking waste in Connecticut. The moratorium lasts until the Department of Energy and Environmental Protection (DEEP) adopts regulations. The moratorium applies to any person accepting, receiving, collecting, storing, treating, disposing of, or transferring between vehicles or modes of transportation any fracking waste. The wastes covered by the act include wastewater, wastewater solids, brine, sludge, drill cuttings, or any other substances used or generated in the process of fracking. Additionally, the act also prohibits the sale, manufacture, distribution, or use of de-icing and dust suppression products derived from or containing fracking waste until DEEP adopt regulations controlling these products.

Vermont is the only state to ban fracking. Connecticut and Massachusetts are considering legislation as well.

City of Middletown, CT

Monday, July 10, 2017

Chapter 171. Hazardous Waste

§ 171-10. Storage, disposal or use of oil and gas drilling and extraction waste prohibited.

[Added 1-3-2017 by Ord. No. 01-17]

- A. Purpose. The prohibition of oil and gas drilling and extraction wastes are hereby declared necessary for the protection of the health, property, safety and welfare of the residents of the City of Middletown pursuant to C.G.S. § 7-148(c)(7)(H), C.G.S. § 7-148(c)(4)(H); C.G.S. § 7-148(c)(7)(H)(xi), C.G.S. § 7-148(c)(8), and § 7-148(c)(7)(H)(ii) as amended.
- B. Definitions. For the purposes of this section, the following terms, phrases, and words shall have the meanings given here, unless otherwise clearly indicated by the context:

APPLICATION

The physical act of placing or spreading natural gas waste or oil waste on any road or real property located within the City of Middletown.

HYDRAULIC FRACTURING

The fracturing of underground rock formations, including shale and nonshale formations, by manmade fluid-driven techniques for the purpose of stimulating oil, natural gas, or other subsurface hydrocarbon production.

NATURAL GAS EXTRACTION ACTIVITIES

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.

NATURAL GAS WASTE

- 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.

OIL EXTRACTION ACTIVITIES

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.

OIL WASTE

- 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.

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

D. 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 City.

- (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 City 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 City shall include a provision stating that no materials containing natural gas or oil waste shall be provided to the City.
 - (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 City 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 City: "We _____ hereby submit a bid for materials, equipment and/or labor for the City of Middletown. 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 City of Middletown as a result of the submittal of this bid if selected."
- E. Penalties for offenses. In response to a violation of this section, the City may 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 City of Middletown. The City may also impose fines in the amount of \$250 per violation per day for any violation of this section and any other remedies allowable under the law.



CONNECTICUT'S FRACKING WASTE MORATORIUM

By: Janet Kaminski Leduc, Senior Legislative Attorney

FRACKING

Fracking, also known as hydraulic fracturing, is the process of pumping fluid into or under the surface of the ground to create fractures in rock for exploration, development, production, or recovery of natural gas. It does not include the drilling or repair of a geothermal water well or any other well drilled or repaired for drinking water purposes (CGS § 22a-472).

ISSUE

Describe Connecticut's fracking waste moratorium and related requirements of Public Act (PA) 14-200.

SUMMARY

PA 14-200, which took effect July 1, 2014, established a moratorium on certain activities associated with fracking waste in Connecticut (CGS § 22a-472(a)-(g)).

The moratorium lasts until the Department of Energy and Environmental Protection (DEEP)

adopts regulations to, among other things, control fracking waste as a hazardous waste. DEEP may, under certain conditions, choose not to adopt the regulations, in which case the moratorium would remain in force.

Under the act, the moratorium applies to any person accepting, receiving, collecting, storing, treating, disposing of, or transferring between vehicles or modes of transportation any fracking waste. The wastes covered by the act include wastewater, wastewater solids, brine, sludge, drill cuttings, or any other substance used or generated in the process of fracking.

The act requires DEEP to submit regulations to the legislature's Regulations Review Committee between July 1, 2017 and July 1, 2018. It also (1) requires DEEP to collect fracking waste product information, (2) requires anyone transporting fracking waste in Connecticut after the regulations are adopted to obtain a DEEP permit, and (3) exempts certain research on small amounts of fracking waste from the moratorium.

ESTABLISHING REGULATIONS

PA 14-200 requires DEEP to submit regulations to the Regulations Review Committee for approval after June 30, 2017 and no later than July 1, 2018. The DEEP commissioner has discretion to not adopt regulations under certain conditions (see below).

Until regulations are approved, activities involving fracking waste, as well as products derived from or containing any of these wastes, are prohibited in Connecticut.

The regulations must:

1. subject fracking waste to the state's hazardous waste management regulations;
2. ensure that radioactive components of fracking waste do not pollute the air, land, or waters or otherwise threaten human health or the environment; and
3. require disclosure of the waste's composition.

Additionally, the act prohibits the sale, manufacture, distribution, or use of de-icing and dust suppression products derived from or containing fracking waste until DEEP adopts regulations controlling these products.

COLLECTING INFORMATION ON FRACKING WASTE PRODUCTS

The act requires the DEEP commissioner to request, at a minimum, the following information about fracking waste products, presumably from people or firms involved in the industry:

1. the extent to which anti-icing, de-icing, pre-wetting, or dust suppression products are or could be derived from or contain fracking waste;
2. the origin of the materials used for the products; and
3. the products' or fracking wastes' chemical composition.

Any information the commissioner acquires is subject to disclosure under the Freedom of Information Act.

DISCRETION TO ADOPT REGULATIONS

PA 14-200 authorizes the DEEP commissioner to ban a particular product or not adopt regulations if a person fails to provide information requested under the act.

The option to not adopt regulations applies to both the fracking waste and the de-icing and dust suppression product regulations.

PERMITS

After regulations are adopted, the act requires any person collecting or transporting fracking waste for receipt, acceptance, or transfer in Connecticut to obtain a DEEP permit before bringing the material into the state. This requirement applies even if the person is not in the waste management business. The permit must require records to be kept of the wastes' origin and all intermediate and final delivery points.

RESEARCH EXEMPTION

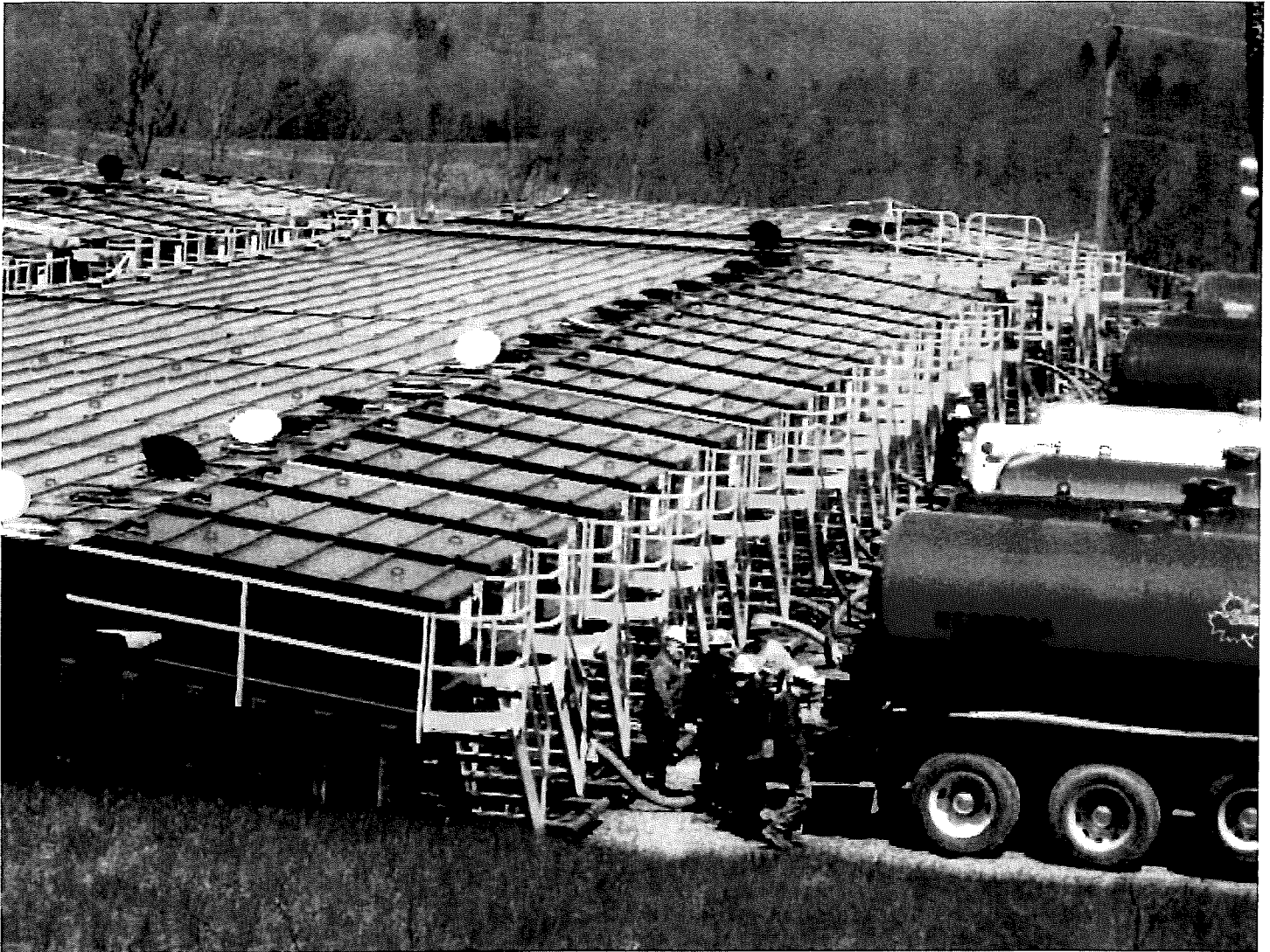
The act exempts certain research activities from the moratorium. Before adopting regulations, DEEP may grant up to three requests to allow a person to treat no more than a total of 330 gallons of fracking waste. DEEP may permit a single treatment in excess of this if the approval is issued to a single person and does not exceed 500 gallons.

The research must be for determining whether fracking waste can be made suitable for use or reuse. Applicants must be professionally qualified to treat the waste. DEEP's approval must include conditions designed to prevent pollution or protect human health and the environment. All waste treated under this exemption must be handled as hazardous waste in accordance with applicable state law, which provides standards and requirements for treatment, storage, and disposal.

JKL:bs

No fracking in Connecticut, but what about its waste?

By: [IAN ELLEN SPIEGEL](#) | February 12, 2014



(<https://3xa3sn2xtr6117bb6o2m6zwf8ea-wpengine.netdna-ssl.com/files/2014/02/fracking-sites-in-Susquehanna-Co-PA-42613site-3-waste11.jpg>)

RIVERKEEPER.ORG

A facility for storing fracking waste in Pennsylvania.

Connecticut has no oil or gas deposits, and that means no fracking — the controversial natural gas and oil extraction process that strips them from rock.

Yet Connecticut could have up to four bills on fracking this legislative session.

It's the waste from fracking — short for hydraulic fracturing — that has lawmakers, environmentalists and even the Department of Transportation concerned, though not a drop of the waste has entered the state.

Even so, based on what's being considered legislatively, Connecticut could set the national standard in dealing with fracking waste.

"I believe there has to be more environmentalism in energy — that the energy industry needs environmentalists really making sure that they pursue best practices," said Rep. Lonnie Reed, D-Branford, co-chair of the Energy and Technology Committee. "The energy industry needs to be really aware of what's going on in front of the issues that plague them."



Like fracking waste.

The bills being written range from banning specific forms of fracking waste to banning it, period. The bill the Malloy administration seems to be embracing most seriously, however, would pave the way to treat the waste here.

Some see that as only fair given the emphasis Gov. Dannel P. Malloy and the Department of Energy and Environmental Protection (<http://www.ct.gov/deep/site/default.asp>) have put on increasing the use of natural gas for heating and the need for more gas sources (and pipelines) for the region's power plants.

"I want to protect Connecticut from fracking waste," said Reed. "But I don't want to be one of those states that say, 'We want your gas, but we don't want the byproducts.'"

The byproduct of fracking is vast amounts of water containing chemicals used in the process. The waste also includes substances picked up from the ground, such as large amounts of salt, naturally occurring toxins and even radiation.

There are a handful of options for dealing with the waste:

- It can be re-injected into the ground for storage — known as deep well injection. But the ability to do that in the Northeast is far more limited than in western fracking areas;
- The wastewater can be reused for multiple fracking operations,

though eventually it will have to be dumped, and what's left will have highly concentrated levels of the various substances in it;

- It has been put in retention ponds or spread on land, allowing the water to evaporate — something difficult to do in the humid Northeast, and many think it's of questionable safety;
- Or, the waste can be treated and discharged into a body of water, as other wastes are. And that's where things get tricky.

Under federal law, known as the Resource Conservation and Recovery Act (<http://www2.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act>) (RCRA), oil and gas production waste is exempt from being categorized as hazardous waste. That means it's not subject to the regulations for treatment and disposal of such waste.

The legislation the governor's office and DEEP support would essentially classify fracking waste as a hazardous waste. Some think this is legally possible, arguing, as does the Natural Resources Defense Council (<http://www.nrdc.org/>), that RCRA sets a minimum, and states can go beyond it. But it's never been tested with fracking waste.

Vermont is the only state so far to take any stance on fracking — banning it, a largely symbolic move. Massachusetts is considering legislation that would impose a 10-year moratorium on fracking and would ban wastewater from treatment, storage or disposal.

Whether Massachusetts or Connecticut reaches the finish line first on fracking waste regulation, however, pushback from the oil and gas industry is expected. "I don't think industry would sit back," said [Kate Sinding](http://www.nrdc.org/about/staff/kate-sinding) (<http://www.nrdc.org/about/staff/kate-sinding>), director of the [defense council's Community Fracking Defense Project](http://www.nrdc.org/media/2012/120919.asp) (<http://www.nrdc.org/media/2012/120919.asp>).

Reed said the state is aware of potential lawsuits. Also under discussion, she said, is whether existing regulations would be enough to treat fracking waste as hazardous or whether new ones would be needed. That begs the question of whether any regulation would send fracking waste business elsewhere.

"When you have tough regulations, calculations begin to change," said Reed, who said she has been contacted by enterprises interested in getting into the fracking-waste processing business. "They have their calculators out."

Business v. environmental concerns

At the [Connecticut Business & Industry Association](http://www.cbia.com/home.php) (<http://www.cbia.com/home.php>), Eric Brown is less concerned about the potential for fracking waste business than he is about not losing an opportunity to lower energy costs through use of shale gas, which he called "transformative" for the state's business climate.

"We're not saying not to do anything about this stuff," Brown said. "What we're saying is let's be rational about it."

He said CBIA is open to discussing whether to have regulations on fracking waste, but does not want anything that would inhibit the availability of gas or undermine regional energy efforts.

"It does not put Connecticut in a good situation to negotiate regionally on things like pipeline expansion," Brown said. "It doesn't make any sense for us to have parochial policy. We don't want to put our state at a disadvantage."

And that is why CBIA is unlikely to support another fracking waste measure likely to come up this session – one that would essentially keep all fracking waste out of the state. Similar efforts were stymied last year – one from Energy Committee co-vice chair Rep. Jonathan Steinberg, D-Westport.

"It's both symbolic and tangible," he said of the focus on waste. "I want a high level of confidence that we will not put the public health at risk."

Steinberg, other legislators and a coalition of environmental groups are already [publicizing their concerns](http://www.youtube.com/watch?v=zRCwhYcFo5A&feature=youtu.be) (<http://www.youtube.com/watch?v=zRCwhYcFo5A&feature=youtu.be>) through an effort they call [Don't Waste Connecticut](http://wastefreect.org/) (<http://wastefreect.org/>).

"It may be the easiest, cleanest way to ensure public health," said Rep. Matt Lesser, D-Middletown, a member of the energy committee and the coalition that sponsored anti-fracking legislation last year. "Thanks, but no thanks. We don't need this stuff here."

(<https://3xa3sn2xtr6117bb6o2m6zwf8ea-wpengine.netdna-ssl.com/files/2014/02/Rep-Matt-Lesser.jpg>)

Rep. Matt Lesser: "We don't need this stuff here."

Fracking waste ban legislation could also run headlong into federal difficulty – the commerce clause of the Constitution as it applies to interstate commerce. That was why in 2012 New Jersey Gov. Chris Christie vetoed the fracking waste ban approved by his state's legislature.

Sen. Ed Meyer, D-Guilford, co-chair of the Environment Committee, said he is not concerned. "We have banned toxic substances that move on interstate commerce," he said referring to bisphenol A, a chemical used in polycarbonates, and certain pesticide uses. "Without a doubt the chemical industry came after us, but they never brought a lawsuit."

Connecticut DOT

But that's not the end of the fracking waste-related legislation likely to surface this year. A bill expected in the transportation committee would ban use of the waste on roads as a de-icer and dust suppressant – possible because of its high salt content.



Several counties in New York have banned it for road-spreading, and some have also banned it from wastewater treatment facilities.

The Connecticut Department of Transportation does not use fracking waste for de-icing, but it's still unclear whether a legislative ban could be enforced in local de-icing and especially on private property.

But one thing none of the legislation intends to do is revisit the state's energy strategy's reliance (<https://ctmirror.org/?s=%22comprehensive+energy+strategy%22>) on natural gas.

"Some folks don't like natural gas; some folks don't like oil. But they want to turn their lights on, and they want to move their thermostats and have heat," said the energy committee's Reed, who thinks legislation on fracking waste will pass.

"But I'm not sure in the final analysis, everyone's fears are going to be allayed."

Comments

0 comments

WASTE: The Soft & Dirty Underbelly of Fracking

Fact Sheet • April 2012

Drilling and fracking a single shale well can produce millions of gallons of toxic wastewater and hundreds of tons of potentially radioactive solid waste. Disposal of these wastes poses serious environmental and public health risks.

The Fracking Nightmare

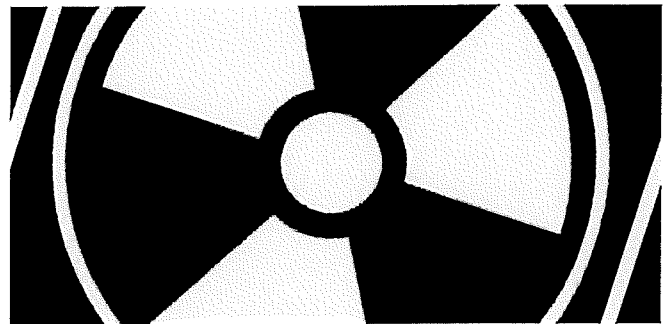
New drilling and fracking technologies have made it feasible to extract large amounts of oil and gas from shale and similar underground rock formations.¹ While this shale development has been a boon for the oil and gas industry, it has been a nightmare for communities living with the water pollution, air pollution, explosions and fires, and ruined landscapes. Fracking for oil and gas also contributes to climate-threatening levels of greenhouse gas emissions.

Rivers of Toxic Wastewater

To frack a shale gas well, millions of gallons of fracking fluid — a blend of water, sand and chemicals — are pumped underground at high pressure to break up shale rock, allowing gas to flow into the well.² The technology for shale oil development is essentially the same.³ Some of the fracking fluid stays underground indefinitely and the rest flows back up out of the well, mixed with naturally contaminated waters from deep below ground.⁴

Fracking wastewater contains numerous chemical additives, many of which are far from safe:

- Known and suspected carcinogens that have been present in fracking fluids include naphthalene, benzene and acrylamide.⁵ Other environmental toxins present in some fracking fluids, such as toluene, ethylbenzene and xylenes, can result in nervous system, kidney and/or liver problems.⁶
- Since fracking fluid recipes are proprietary, and since there is no federal requirement for disclosure, fracking fluid can contain unknown chemical additives.⁷ This means the full threat of fracking wastewater is also unknown.



Fracking wastewater contains potentially extreme levels of often naturally occurring but harmful contaminants that are brought to the surface:

- Harmful contaminants can include arsenic, lead, hexavalent chromium, barium, strontium, benzene, polycyclic aromatic hydrocarbons, toluene, xylene, corrosive salts and naturally occurring radioactive material, such as radium-226.⁸

The *New York Times* reviewed documents on gas wells in Pennsylvania and West Virginia and found that at least 116 wells produced wastewater with radiation levels that were a hundred times the U.S. EPA's drinking water standard; at least 15 of these wells had wastewater at more than a thousand times the standard.⁹

Since conventional treatment facilities are not equipped to treat radioactive material and other contaminants in fracking wastewater, many of these contaminants simply flow through conventional treatment facilities and get discharged into public rivers and streams.¹⁰ This could contaminate drinking water supplies for downstream communities and could harm aquatic life essential to sustaining recreational and commercial fisheries.

Researchers at the University of Pittsburgh tested water being discharged, after treatment, into a creek from a facility in Pennsylvania and found average concentrations of benzene at twice the U.S. EPA's drinking water standard, barium at 14 times the standard, total dissolved solids at 373 times the standard, strontium at 746 times the EPA's recommended level for drinking water and bromide at 2,138 times the level that triggers regulatory reporting requirements under the treatment plant's permit in Pennsylvania.¹¹

Bromides cause particular problems for downstream drinking water utilities. Bromides can react during water treatment to form brominated trihalomethanes, which are linked to cancer and birth defects and which are difficult to remove once they've been added to drinking water supplies.¹²

Mountains of Toxic Waste

New York estimated that drilling a typical shale gas well would generate about 5,859 cubic feet of rock cuttings — enough to cover an acre of land more than 1.5 inches deep.¹³ These cuttings, about the size of coarse grains of sand, are coated with used drilling fluids that can contain contaminants such as benzene, cadmium, arsenic, mercury and radium-226.¹⁴

Dumping this toxic waste in landfills could expose workers to harmful levels of some of these environmental toxins.¹⁵ Radium-226 contamination would persist for more than a thousand years after the landfill closed, ruining the productivity of the land for many generations.¹⁶

Dumping loads of drilling cuttings in landfills could lead to operational problems as well. The landfill linings could be degraded, resulting in leaks of radioactive material and other harmful contaminants.¹⁷ Also, layers of drilling cutting wastes could plug up the flow of landfill fluids, causing spills out the sides of the landfill.¹⁸

Take Action

Fracking wastes are clearly hazardous, yet they are not regulated as hazardous waste under federal law.¹⁹ Disposing of these wastes by injecting them deep below ground is believed to have caused numerous earthquakes, and such disposal can also mean the wastes are hauled long distances over public roads, risking accidents and spills.²⁰ If the oil and gas industry succeeds in bringing drilling and fracking to new areas of the country, the problems with disposing of these wastes will only grow.

**To find out how you can
help the nationwide effort
to ban fracking, visit:
www.foodandwaterwatch.org**

Endnotes

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Fracking is a nickname for “hydraulic fracturing”. It means pumping a highly toxic chemical and sand solution into the ground, at very high pressure, to shatter or fracture shale. This releases trapped oil & gas from the layers of rock. Traditionally, this occurred by drilling straight down vertically. But new technology allows:

- Wells to be dug up to 2 miles deep
- Continue the drilling sideways for up to 2 miles horizontally.
- These are called unconventional wells, or high volume, horizontally fractured wells.

“High volume” because, on average, each well is:

- Pumped with 4 to 5 Million gallons of toxic solution made of water, chemicals and sand, and
- Large quantities return to the surface and need to be disposed of as waste.
- Each well can produce more than a million gallons of liquid waste and
- Thousands of tons of solid waste in the form of sand, earth & rock drilled out of ground and sludge.

Closest to Connecticut, in Pennsylvania:

- More than 9,775 of these wells have been drilled already and
- There are estimates that more than 80,000 wells could be drilled in future years.

According to Pennsylvania Department of Environmental Protection records compiled by FracTracker Alliance, from January to June 2015, Pennsylvania produced over 878.8 Million gallons of liquid waste and over 647,000 tons of solid waste in just 6 mos. There is so much waste to be disposed of that PA is shipping it out to 8 different states. This waste is highly toxic. Toxic chemical solutions are used for:

- Both the drilling process and the fracturing process
- To remove sediments and wastes from equipment
- To remove scale that builds up inside pipes.

More than 1,000 chemicals are voluntarily reported by the industry. The total number of chemicals used are unknown because the oil & gas industry is allowed to withhold reporting chemicals considered proprietary, or trade secrets.

The fractured shale also releases a salty brine that is:

- Remnant from ancient seas that existed 350 million years ago. These corrosive salts are 8x saltier than sea water of today.
- The brine can also be contaminated with naturally occurring but still highly toxic material buried deep in the earth, including:
 - Radioactive material, arsenic, lead, strontium, benzene, toluene, xylene, hexavalent chromium.
 - Most people had never heard of hexavalent chromium before the movie, Erin Brokovich.

These natural toxins mix with the solution injected into the ground and wastes coming out of the well, so what solution goes IN can come OUT even more contaminated than it was to start. Solid wastes are also contaminated by drilling and fracturing chemicals and naturally-occurring toxins buried in the ground.

Regarding the radioactive material:

- The EPA safe level of radium in drinking water is 5 picocuries per liter
- Brine coming out of wells has measured as high as 26,000 picocuries per liter.
- A picocurie is a measurement named after Madame Curie who discovered radium and later died from radium poisoning.
- Radium 226 has a radioactive half-life of 1,600 years. As it decays, it turns into other hazardous material such as radioactive polonium and lead. Total radioactive decay time can exceed 4,000 years.

When radium is released into the environment:

- It can build up in soil & waterway sediment.
- Low levels can accumulate where there is repeated discharge and become a bigger problem over time.
- It can be absorbed by plant material and crops, by fish and animals who eat the plants or water, going all the way up to humans at the top of the food chain.
- It can be inhaled from dust where there is contaminated soil
- Absorbed through an open wound in the skin when swimming or wading.
- Once inside the body, radium can settle in high calcium areas, which is why it is KNOWN to cause breast, bone and liver cancer. It also causes aplastic anemia.
- Radium is also associated with adult and childhood leukemia.

More than 750 studies have been published to date showing the harms of fracking. The attached infographic shows research by Dr. Theo Colborne and the effects of 353 chemicals used for fracking on the human body:

- Multiple organ damage
- Neurological damage
- Cancers
- Birth defects, sterility and other reproductive and developmental disorders.

(See Infographic: Body Systems Affected by Fracking Chemicals by Physicians for Social Responsibility)

This waste is being moved around by thousands of tanker trucks and dump trucks. Sometimes the waste is turned into a secondary product.

- When waste is disposed this way, it's given a "Beneficial Use Determination" or B-U-D or BUD permit.
- Spreading brine on roads as de-icer and for dust control are examples.
- Solid waste is being marketed for construction projects, as base material for roads and mixed into capping material when brownfields are remediated.

Using this material may result in the procurement of an inferior product and risks contamination and other remediation costs.

The West Virginia legislature commissioned a study from research and engineering staff at Marshall University to determine if the vast amounts of fracking waste produced in West Virginia could be re-used for road building and brownfields. Their research determined that the wastes aren't suitable because of:

- High moisture content
- Silt content
- Chloride and radiation contamination exceeding allowable limits.
- Processing and shipping waste from drilling sites would be more expensive than using other more appropriate materials
- There would be risks of settling in the future.

There is a long list as to why ban this waste locally:

- The handling & disposal of this waste is causing severe contamination wherever accidents, spills and leaks are occurring.
- There is risk for contaminated run-off or leaching wherever wastes and by-products are used or spilled.
- Spills are affecting private & public property, roadways and waterways.
- Spills have seeped into the ground, spoiling aquifers and wells used for drinking water.
- Local police and fire departments have the burden of being first responders to spills.
- And people working, living or driving nearby can be exposed to toxic plumes while waiting for clean-up.
- Salts and other toxins can make farmland infertile, and crops can absorb toxins, including radioactivity.
- Livestock, pets, wild game and animals have become sickened and died after exposure, and can be attracted to the waste like a salt-lick.
- Radioactivity can remain in water and contaminated sediment and soils for thousands of years.
- Remediation is extremely expensive, if it can even be done at all, and the cost falls on local taxpayers. As example, the Town of Greenwich recently spent millions of dollars digging up and replacing their school sports fields, when it was discovered that fill used to build the fields was contaminated with PCBs from coal ash waste. The expense of remediating potentially contaminated areas in the future can be prevented by banning fracking and other oil & gas extraction wastes.
- Property values have significantly depreciated, and property and farmland has been rendered unusable, where spills and contamination have occurred.

The State of Vermont has already passed a fracking waste ban.

The NJ legislature passed a waste ban twice, but each time Governor Christie vetoed it. In response, dozens of towns and counties in New Jersey have passed local bans.

New York has banned high volume fracturing, but the state allows waste to be imported from PA. Scores of NY towns and 15 NY counties have now passed fracking waste bans, protecting hundreds of NY municipalities. The New York City Council also passed a waste ban for all 5 boroughs in August 2016.

In CT, legislators attempted to pass a state-wide ban 2 years ago.

- Unfortunately, the bill was compromised and a temporary moratorium became law instead.
- The changes also mandate that the CT Department of Energy and Environmental Protection (DEEP) submit regulations for review between July 2017 and July 2018, or as soon as next summer.
- We don't know what these regulations will be yet, but so far, Commissioner Klee has NOT supported a ban. He testified against a ban when legislation was still in committee, stating he didn't want to interfere with commerce.
- He and his staff have since made several public statements that CT regulations could be modeled after other states' or federal guidelines, and mention "cradle-to-grave" tracking, which is unattainable.

Why regulations by CTDEEP will likely fail:

- DEEP has had huge budget and staffing cuts and can't reasonably be expected to enforce regulations.
- DEEP does not have any oversight or jurisdiction over how this waste is handled before it enters CT, so any attempts to track or manifest materials will likely not be accurate.
- There is no cataloging of waste as it is produced by each well, and each well can vary in the type of contaminants it produces. Different chemicals are used to handle specific geological issues at separate wells, and naturally-occurring toxins buried in the ground can vary at each location.
- Inspectors are not monitoring, supervising or cataloging waste as it is produced. This waste is partially treated and re-used numerous times at different wells before disposal, with additional chemicals used and in-ground toxins causing varying levels and types of contamination.
- "Best Management Practices" may not require high-cost and time-consuming testing methods. The gold-standard to accurately test for radium content requires a 30 day hold in a sealed container prior to using gamma ray spectroscopy. Representative sampling or testing a small percentage of material, instead of every load, will also be an ineffective method of monitoring contaminants.
- Regulations on paper cannot stop accidents, leaks, spills, equipment and human errors or illegal activity from occurring in the real-time handling of this waste.

The current CT temporary moratorium makes CT the only state in the nation that labels fracking waste as hazardous material. This is a double-edged sword because:

- It does require stronger rules for disposal and labeling of tankers transporting waste through CT.
- But if regulations are approved, 3 privately-owned, for-profit hazardous waste treatment facilities, located in Bristol, Meriden and Bridgeport, may apply for permits.
- I-84 and other CT roadways will be driven by thousands of tanker trucks making delivery. Highly concentrated toxic residuals from treated waste will also be shipped out of the state after treatment.
- It is extremely difficult and expensive to remove all toxins. Partially treated but still contaminated effluent may be discharged or passed to other municipal treatment facilities. These public facilities will not be equipped to remove toxins or radioactivity, and may potentially discharge contaminated

effluent into local water ways. Salts and chemicals may damage treatment facilities, and radioactive sludge may require costly alternative disposal methods, increasing taxpayer burdens.

These hazardous waste facilities have been non-compliant in treating the wastes products these facilities are already permitted to receive. According to EPA records posted on Rivers Alliance website, from 2013 to 2016, all 3 have been:

- Repeatedly non-compliant & in violation
- Exceeding allowable discharges for 9 to 12 of past 12 quarters
- Meaning most or all of the past 3 years.

<http://www.riversalliance.org/CToxicsTreatment/overview.cfm>

How would waste be brought to individual towns?

Specifics are unknown as regulations haven't been released, but some possible scenarios are:

- Private contractors or towns might apply for BUD permits to use waste in construction projects.
- Waste might also be transported through towns to treatment facilities.
- Land could be leased for storage tanks to hold wastes or partially treated effluents, with tanker trucks transferring liquids in and out.
 - Problems have occurred with storage containers leaking
 - Escape hatches and valves may vent noxious fumes
 - Valves have also failed or been left open accidentally by employees causing huge spills in PA.
 - The transfer of waste by hose into and out of storage containers contributes to spills.

Why take action with a local ordinance?

To eliminate the risk of spills, leaks, run-off, leaching or airborne toxins contaminating air and waterways, properties and drinking water, farm land and impacting public health.

CT Statue 7-148(h) states towns have the authority to "prohibit the carrying on within the municipality of any trade, manufacture, business or profession which is, or may be...prejudicial to public health."

6 CT towns, including Washington, Coventry, Mansfield, Portland, Andover and Windham/City of Willimantic have passed local ordinances banning fracking and oil & gas drilling and extraction wastes.

What does an ordinance prohibit?

The language is specific to wastes from oil & gas drilling and extraction activity.

(It does not ban refined oil & gas waste or refined oil & gas products. As example, motor oil waste or other engine lubricants can still be disposed. Also, drinking water wells that need to be "fracked" would still be

allowed. While it is the same name and high pressure process, drinking water wells only use clean water, not the chemical solutions used for oil & gas drilling.)

No waste may be applied or placed on any property or roads. It may not be processed, treated, sold or acquired, disposed of, stored in, handled or transferred in town. Handling and transfer has caused spills to occur in other states.

It is not possible to ban the transportation of fracking waste through towns. Federal Interstate Commerce laws do not allow banning transportation. This is unfortunate as the thousands of tanker trucks and dump trucks carrying waste in other states have increased road accidents, contributing to spills and contamination.

The ordinance would however make it illegal for tanker trucks to have leaking valves if they pass through town. This has been a problem in other states where waste is transported, leaking toxic solution onto the roadway. Friction from tire traffic can cause chemicals and radioactive materials to become airborne and be inhaled.

Local ordinances provide legal parameters for towns to recoup damages if needed.