

BOROUGH OF NAUGATUCK

BE IT ORDAINED, by the Board of Mayor and Burgesses, in a meeting duly assembled on June 5, 2018 that the following ordinance is adopted, hereby creating a new **Article IV, Ordinance Prohibiting the Storage, Disposal or Use of Oil and Gas Drilling and Extraction Waste, §§ 11-48 – 11-60 in Chapter 11 – Health and Sanitation** of the Code of Ordinances of the Borough of Naugatuck, Connecticut, which reads as follows:

ORDINANCE #131

Chapter 11, Health and Sanitation, Article IV, Ordinance Prohibiting the Storage, Disposal or Use of Oil and Gas Drilling and Extraction Waste, §§ 11-48 – 11-60 of the Code of Ordinances of the Borough of Naugatuck, Connecticut is hereby as follows:

Sec. 11-48. Intent.

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 Borough of Naugatuck 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.

Sec. 11-49. Definitions.

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

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

and c) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.

6. *“Application”* shall mean the physical act of placing or spreading natural gas waste or oil waste on any road or real property located within the Borough of Naugatuck.

Sec. 11-50. Prohibitions.

1. The application of natural gas waste or oil waste, whether or not such waste has received Beneficial Use Determination or other approval for use by DEEP (Department of Energy & Environmental Protection) or any other regulatory body, on any road or real property located within the borough for any purpose is prohibited.

The storage, disposal, sale, acquisition, transfer, handling, treatment, and/or processing of waste from natural gas or oil extraction is prohibited within the borough.

Sec. 11-51. 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 borough.

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 borough shall include a provision stating that no materials containing natural gas or oil waste shall be utilized in providing such a service.

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 borough shall include a provision stating that no materials containing natural gas or oil waste shall be provided to the borough.

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 borough 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 borough: *“We _____ hereby submit a bid for materials, equipment and/or labor for the Borough of Naugatuck. 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 Borough of Naugatuck as a result of the submittal of this bid if selected.”*

Sec. 11-52. Penalties.

In response to a violation of this ordinance, the borough may: (1) issue a Cease and Desist order demanding abatement of the violation; (2) 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 Borough of Naugatuck; (3) impose a civil penalty in the amount of \$250 per day for each day the condition or damage referenced in the Cease and Desist continues or is not fully remediated or repaired; (4) recoup from the offending person(s), jointly and severally, all costs, including experts, consultants, and reasonable attorney's fees; (5) and seek any appropriate legal relief, including immediate injunctive relief and any other penalties as may be authorized by the Connecticut General Statutes or DEEP regulations (as the same may be adopted from time to time), as a result of any violation of this ordinance.

Sec. 11-53. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this ordinance of the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this ordinance or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered. To further this end, the provisions of this article are hereby declared to be severable.

Sec. 11-54. Enforcement

The Mayor of the Borough of Naugatuck, or any borough official designated by the mayor, is authorized to pursue penalties against any person or entity who commits a violation of this ordinance. Such officials may engage the assistance of DEEP or third party testing facilities to determine the chemical contents of any waste products suspected to violate the terms of this ordinance.

Secs. 11-55 – 11-60 Reserved.

This Ordinance shall be effective upon publication.

Nancy K. DiMeo Borough Clerk

Adopted June 5, 2018 – Effective June 17, 2018
Printed 6/17/2018