

LOCAL LAW NO. 1 2015

A LOCAL LAW GOVERNING THE SALE, APPLICATION, AND DISPOSAL OF WASTE ASSOCIATED WITH OIL AND NATURAL GAS EXPLORATION, EXTRACTION AND STORAGE ACTIVITIES.

BE IT ENACTED BY THE TOWN OF ANDES TOWN BOARD AS FOLLOWS:

Section 1: Legislative Intent.

The toxins and radioactive materials found in hydraulic fracturing (hereinafter referred to as "hydrofracking") waste are detrimental to the public health and therefore should be kept off all roadways and Real Property in the Town of Andes and kept out of our drinking water. As a result of the significant public health risks associated with hydrofracking wastes, the Town of Andes Town Board finds it necessary to prohibit the introduction of such waste into treatment facilities and roadways located within the Town of Andes.

Section 2: Definitions.

As used within this Local Law, the terms listed below shall have the following meaning:

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 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 waste 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 Town of Andes.

7. "Town of Andes" shall mean the Town of Andes, New York.

Section 3. Prohibitions.

1. The application of natural gas waste or oil waste, whether or not such waste has received a Beneficial Use Determination pursuant to 6 NYCRR Part 360, on any road or real property located within the Town of Andes for any purpose is prohibited.
2. The introduction of natural gas waste or oil waste into any wastewater treatment facility within or operated by the Town of Andes is prohibited.
3. The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the Town of Andes is prohibited.
4. The sale, acquisition, storage, handling, treatment and/or processing of natural gas waste or oil waste within the Town of Andes is prohibited.

Section 4. Provision to be included in bids and contracts related to the construction or maintenance of publicly owned and/or maintained roads or real property within the Town Of Andes.

1. All bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and/or maintained road or real property within the Town of Andes shall include a provision stating that no materials containing natural gas waste or oil waste shall be provided to the Town Of Andes.
2. All bids and contracts related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the Town of Andes shall include a provision stating that no materials containing natural gas waste or oil waste shall be utilized in providing such a service.

3. The following statement, which shall be a sworn statement under penalty of perjury, shall be included in all bids related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and/or maintained road or real property within the Town of Andes and all bids related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the Town of Andes "We, _____ hereby submit a bid for materials, equipment and/or labor for the Town of Andes of _____. 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 Town of Andes of _____ as a result of the submittal of this bid if selected."

Section 5. Education of Town Employees.

The Andes Town Board, or any Committee appointed by the Town Board, is hereby authorized to develop policies, educational materials, and/or training courses for department heads and employees to ensure that all town employees are familiar with the provisions of this Local Law. A contractor or vendor shall construe nothing in this Section to excuse non-compliance.

Section 6. Penalties.

This law shall apply to any and all actions occurring on or after the effective date of this law. Any violation of Section 3 of this Local Law shall be an unclassified misdemeanor punishable by a fine not to exceed \$25,000.00 per violation and/or up to thirty days' imprisonment. Each sale, application, and/or acceptance of natural gas waste or oil waste shall constitute a separate and distinct violation.

Section 7. Severability.

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

Section 8. Effective date.

This local law shall take effect immediately upon the filing with the New York State Department of State.