



MODEL COUNTY/MUNICIPAL OIL AND NATURAL GAS WASTE LEGISLATION

A LOCAL LAW adding a new Chapter __ to the Laws of _____ in relation to the sale, application, and disposal of waste associated with oil and natural gas exploration, extraction and storage activities.

BE IT ENACTED by the _____ as follows:

Section __.

A new Chapter __ is hereby added to the Laws of _____ to read as follows:

Section __. Definitions.

As used in this article, the following terms shall have the meanings indicated:

1. As used in this Chapter the term “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. As used in this Chapter the term “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. As used in this Chapter the term “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. As used in this Chapter the term “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. As used in this Chapter the term “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. As used in this Chapter the term “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 [County/City/Town/Village] of _____.
7. As used in this Chapter the term [County/City/Town/Village] shall mean the [County/City/Town/Village] of _____.

Section __. 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 [County/City/Town/Village] 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 [County/City/Town/Village] is prohibited.
3. The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the [County/City/Town/Village] is prohibited.
4. The sale, acquisition, storage, handling, treatment and/or processing of natural gas waste or oil waste within the [County/City/Town/Village] is prohibited.¹

¹ Please Note: While banning acquisition, handling, etc. is an important concern for many localities, it may not be practical in all areas and may therefore be considered on a case by case basis.

Section __. 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 [County/City/Town/Village].

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 [County/City/Town/Village] shall include a provision stating that no materials containing natural gas waste or oil waste shall be provided to the [County/City/Town/Village].
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 [County/City/Town/Village] 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 [County/City/Town/Village] 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 [County/City/Town/Village]:

“We, _____ hereby submit a bid for materials, equipment and/or labor for the [County/City/Town/Village] 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 [County/City/Town/Village] of _____ as a result of the submittal of this bid if selected.”

Section __. Duty of Employees to be familiar with this Chapter.

The [County Executive/Mayor/Town Supervisor] or, at the [County Executive's/Mayor's/Town Supervisor's] option, any Department head or commissioner appointed by the [County Executive/Mayor/Town Supervisor] is authorized to develop policies to ensure [County/City/Town/Village] employees are familiar with the provisions of this Chapter and take such steps as are directed by the [County Executive/Mayor/Town Supervisor] or such department head or commissioner to ensure a diligent effort by the [County/City/Town/Village] that materials supplied to the [County/City/Town/Village] or used on [County/City/Town/Village] roads or property comply with this law. This Section shall not excuse non-compliance by a contractor or vendor of the [County/City/Town/Village].

Section __. Penalties.

This law shall apply to any and all actions occurring on or after the effective date of this law. Any violation of Section __ of this Chapter 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 __. 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 __. Effective date.

This local law shall take effect sixty days after it is filed with the New York State Department of State.

Please note that the information provided in this document does not constitute legal advice and is provide solely for reference. Jurisdictions wishing to use this model legislation as the basis for introducing their own legislation should seek the advice of legal counsel.

In addition, particular jurisdictions should, with the assistance of legal counsel, determine whether the type of penalty that will be included in any proposed legislation will be in the form of criminal fines and/or imprisonment or civil penalties, given the particular legal framework within which that legislation will be incorporated.