

Ryan Knapp, Chair  
Chris Smith, Vice Chair  
Judit DeStefano  
Chris Eide  
Jordana Bloom  
Jay Mattegat



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Newtown, CT. 06470  
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## TOWN OF NEWTOWN

### Minutes of the Legislative Ordinance Committee Meeting

The Ordinance Committee met on Wednesday August 8th, 2018 in Meeting Room 1 of the Municipal Center, 3 Primrose Lane, Newtown. Committee Chairman Ryan Knapp called the meeting to order at 7:00 pm.

Present: Mr. Eide, Ms. Bloom, Mr. Mattegat and Mr. Knapp. Also Council Chair Mr. Lundquist, Ms. Quinn and Ms. Villamil of the Sustainable Energy Commission

Absent: Ms. DeStefano and Mr. Smith

### MINUTES:

Mr. Eide moved to approve the minutes of 4/30/18. Ms. Bloom seconded.

Mr Knapp relayed Ms DeStefano's comments that she did not agree that "this is well intended, but a ban may not be the correct approach, considering charging for both and letting the stores keep the proceeds" and that she didn't feel that this was the consensus of the group. Rather she thought the next iteration would look at banning plastic, charging for paper, but letting stores keep proceeds. Also noted that there was discussion around changing the language around this applying to stores 1,500 sq. ft. or larger.

All in favor (4-0)

PUBLIC COMMENT: None

### Old Business

Review and Recommendation regarding the prohibition of storage, disposal or use of fracking waste per the charge set forth by the Legislative Council on February 7<sup>th</sup>, 2018.

Mr. Knapp summarized that there has been a legal review of which there is a draft he shared with the group. However just recently a new version of the ordinance came in from The Connecticut Conference of Municipalities (CCM.) It appears to be a stripped-down version and they raise new concerns not previously considered.

Mr. Eide questioned if the group should send both versions back to Legal for review.

Mr. Lundquist noted the CCM version does not go as far as the request from Food and Water Watch.

Mr. Knapp noted that the CCM version removed 003 provisions. He said it feels like one food in and one food out. He will talk to George Benson and Fred Hurley about the burden of the concerns raised by CCM.

Mr. Eide noted there were exemptions in the CCM version not in our draft.

Review and Recommendation regarding the proposed Plastic Bag Ban Reduction Ordinance per the charge set forth by the Legislative Council on April 18<sup>th</sup>, 2018.

Mr. Knapp said that Ms. DeStefano was on vacation but had shared a google document of the draft.

Ms. Bloom read a letter from a manager at Caraluzzi's noting that there was a CT Food Association proposal active at the state level. He felt a state-wide ban would be better than town by town and would support a state-wide approach. He emailed and called with his concerns.

Mr. Mattegat felt that this would put Newtown businesses at a disadvantage and feels a statewide ban would be a level playing field. He has legal concerns and thinks it is hypocritical for the Town to demand

businesses do this when our schools do not recycle. He has a concern that people will simply switch to paper which has a more substantial production cost environmentally using 3X as much energy. He questioned how the Town would pay for enforcement and collection based on what we have heard, but he thinks state level action would be super. It is an admirable concern but is not sure there is enough support to justify business concerns.

Ms. Villamil noted that there has been not action on the state level and that the goal is to get rid of paper bags as well. Recycling in the schools is a separate issue her group is working on. Businesses seem to embrace the ban in Westport. She has no doubts about support and could have 100 people in attendance for our next meeting if that is what it took.

Mr. Lundquist acknowledged the concerns on both sides, noting that Hawleyville is halfway between two stores. He asked if other towns are also considering this. He suggested we frame the scope as this may only be impacting 5-6 stores.

Ms. Bloom was unsure how much this would impact sales of stores. She felt this would be beneficial, especially as Newtown is going through a Sustainable CT initiative. Plastic is a big issue in Newtown. A Greenwich RTM manager spoke to her and says this is going well there with a smooth transition. She thinks we should start with the larger stores rather than the smaller mom and pop operations. She discussed paying for paper and costs.

Mr. Knapp said he personally wished this were done at the state level because this feels like spot zoning. Would rather see a level playing field if Newtown is to be business friendly.

Mr. Eide discussed how banning plastic and compelling consumers to pay for paper will be a savings for stores because they currently give away bags at their cost. Were we to ban both people would simply walk to their cars. He then asked if we could make it the LC's purview to set fees for bags.

Mr. Knapp asked to focus on the draft. Currently the draft is as it was with notes. He asked Ms. Bloom to assist Ms. DeStefano in developing something tangible we can discuss including defining the stores, working out the fees, deciding what to do with any charges and getting a draft we can vote on as opposed philosophical debate. He asked Ms. Bloom to follow up with Caraluzzi's. Encouraged the group to go through the process of developing an ordinance objectively then vote on it.

Review and Recommendation regarding the issue of discrepancy between the Charter Revision Commission intent and the applicable State Statute regarding Board of Education candidate composition per the charge set forth by the Legislative Council on April 18<sup>th</sup>, 2018.

Mr. Eide reported that the Secretary of State's (SOS) office said to contact the Town Attorney. Legal has not responded but when they do he will verify their recommendation with the SOS.

Mr. Knapp felt after reviewing the language that the Charter and an Ordinance would risk conflicting because of the sections referenced in statute that the Charter takes exception to, specifically minority representation on the BOE. Charter supersedes Ordinance. He said the only way to fix this and be 100% certain is with a Charter Revision, noting that we may have a different Secretary of State in 3 years.

Mr. Lundquist said while he is inclined to agree he sees the flip-side. He would like to ask the Town Attorney.

Mr. Knapp said there is no harm in continuing and asked Mr. Eide to report back with the input from the Town Attorney.

PUBLIC COMMENT: None.

Ms. Bloom moved to adjourn the meeting at 8:30PM, Mr. Eide seconded. All in favor (4-0)

Respectfully Submitted,

Ryan W. Knapp  
Ordinance Committee Chairman



Ryan Knapp &lt;knapp.newtown@gmail.com&gt;

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## Newtown Ordinance - Fracking Waste

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**Dobin, David** <DDobin@cohenandwolf.com>

Tue, Jul 31, 2018 at 1:47 PM

To: Ryan Knapp &lt;knapp.newtown@gmail.com&gt;, "Grogins, David L." &lt;DGrogins@cohenandwolf.com&gt;

Cc: "Dobin, David" &lt;DDobin@cohenandwolf.com&gt;

Ryan –

I have looked into your questions and discussed this with David, who has worked on a similar ordinance for the Town of Ridgefield but I don't believe Ridgefield adopted one. My understanding from speaking with him is that CCM is working on a model ordinance – but I have not seen a copy of that. Please let me know if you want me to see if there is any other model ordinance available.

As you may already be aware, there is currently a moratorium on activities connected to waste from hydraulic fracturing under state law (CGS s. 22a-472) until DEEP adopts regulations controlling fracking waste. Also, my understanding is that there have not been any fracking activities in Connecticut yet. Regardless, because DEEP has not adopted fracking waste regulations, the moratorium will remain in place. If DEEP at some point adopts fracking waste regulations or the state permits activities with respect to fracking waste, the ordinance that is adopted may be preempted.

I have attached a marked up version of the draft with some comments. In addition, please see below my answers to your specific questions.

**Question 1:** Is the definition of "collector" required?

**ANSWER: No.** Because the term "collector" is not used in the ordinance, this definition can be omitted.

**Question 2:** Is the transportation section required? Is it good to have to make sure we are covered or would it be implied if we did not have it?

**ANSWER: Without the transportation section, transportation of fracking waste would be prohibited under the ordinance.** Section 2(4) of the Ordinance states that the "storage, disposal, sale, acquisition, transfer, handling, treatment and/or processing of waste from natural gas or oil extraction is prohibited within the Town." This section (specifically, the ban on storage, transfer and handling) may be interpreted to include a ban on the transportation of fracking waste on roads and real property in the town. A ban on transportation of fracking waste may be unconstitutional under the Commerce Clause of the US Constitution (Art. I, s. 8) because it may have a negative impact on interstate commerce. This is the reason that towns have included this language in their fracking waste ordinances.

**Question 3:** What happens in the event of a spill from a car accident? Would that be treated like any other chemical spill?

**ANSWER:** The ordinance bans the "application" of natural gas waste and oil waste within the town. The term "application" means "the physical act of placing or spreading natural gas waste or oil waste on any road or real property located within the Town of Newtown." The definition does not require a specific intent to place the waste on the road or real property. Thus, it is arguable that the term "application" includes the unintentional spilling of waste on the road. In

addition, the ordinance bans the "introduction" of waste into any wastewater treatment or solid waste management facility. The term "introduction" is not defined and the ordinance also does not require a specific intent to introduce the waste into such facilities. Thus, it may be a violation of the ordinance as currently drafted if a spill results in the introduction of waste into such facilities.

As for whether it is treated like any other chemical spill, I would recommend including language in section 6 of the ordinance making clear that the requirements of the ordinance are in addition to the requirements of any other ordinance, law, etc. (See s. 130-8 of attached North Haven ordinance).

If you would like to discuss this further or have any other questions, please let me know.

Thanks

David

**David Dobin | Cohen and Wolf, P.C.**

1115 Broad Street | Bridgeport, CT 06604 | P: 203.337.4120 | F: 203.337.5520

[ddobin@cohenandwolf.com](mailto:ddobin@cohenandwolf.com) | [www.cohenandwolf.com](http://www.cohenandwolf.com)

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**From:** [ryan.w.knapp@gmail.com](mailto:ryan.w.knapp@gmail.com) [mailto:[ryan.w.knapp@gmail.com](mailto:ryan.w.knapp@gmail.com)] **On Behalf Of** Ryan Knapp  
**Sent:** Thursday, July 12, 2018 5:53 PM  
**To:** Grogins, David L.  
**Cc:** Dobin, David  
**Subject:** Newtown Ordinance - Fracking Waste

8/17/2018

Gmail - Newtown Ordinance - Fracking Waste

Hello,

[Quoted text hidden]

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**3 attachments**



**2018-06-25 North Haven Ordinance.pdf**  
176K



**2018-07-31 DD Fracking Waste Draft REDLINE.pdf**  
242K



**2018-07-31 DD Fracking Waste Draft REDLINE.docx**  
23K

**Chapter 130**

- § 130-1. Declaration of purpose.**
- § 130-2. Definitions.**
- § 130-3. Prohibitions.**
- § 130-4. Provision for bids and contracts.**
- § 130-5. Enforcement.**
- § 130-6. Penalties.**
- § 130-7. Transportation.**
- § 130-8. Compatibility with other laws and severability.**

**[HISTORY: Originally adopted by the Town of North Haven [date to be inserted] Town Meeting.]**

**§ 130-1. Declaration of purpose.**

The purpose of this ordinance, to be known as the “Ordinance Prohibiting Wastes Generated from Oil and Gas Drilling and Extraction Activities” or “Hydraulic Fracturing Waste,” is to prohibit the use, storage, disposal, sale, acquisition, transfer, handling, treatment, and/or processing of waste from natural gas or oil extraction within the Town of North Haven as set forth therein to protect the health, safety, welfare, and property of the public pursuant to Connecticut General Statutes Section 7-148.

**§ 130-2. Definitions.**

For the purposes of this Ordinance, the following terms shall have the meanings herein defined:

**APPLICATION** - The physical act of placing or spreading natural gas waste or oil waste on any road or real property located within the Town of North Haven.

**HYDRAULIC FRACTURING**- 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.

**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.

**§ 130-3. Prohibitions.**

The following acts/activities are hereby prohibited in the Town of North Haven:

- (a) 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 the Connecticut Department of Energy & Environmental Protection (“CT DEEP”) or any other regulatory body, on any road or real property located within the Town for any purpose.
- (b) The introduction of natural gas waste or oil waste into any wastewater treatment facility within or operated by the Town.
- (c) The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the Town.
- (d) The storage, disposal, sale, acquisition, transfer, handling, treatment and/or processing of waste from natural gas or oil extraction.

**§ 130-4. Provision for bids and contracts.**

The following provisions shall be included in all bids and contracts related to the retention of services for the construction or maintenance of publicly owned and/or maintained roads or real property within the Town:

- (a) A provision stating that no materials containing natural gas or oil waste shall be utilized in providing such a service.
- (b) A provision stating that no materials containing natural gas or oil waste shall be provided to the Town.

In addition to the above, 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 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:

*We, \_\_\_\_\_, hereby submit a bid for materials, equipment and/or labor for the Town of North Haven. 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 North Haven as a result of the submittal of this bid if selected.*

#### **§ 130-5. Enforcement.**

The First Selectman of the Town of North Haven, or his/her designee, are hereby authorized to pursue penalties against any person(s) who commit a violation of this Ordinance. The involvement of any North Haven officials will not require testing of waste products to determine chemical contents. Such officials may engage the assistance of CT DEEP or third-party testing facilities to determine the chemical contents of any waste products suspected to violate the terms of this Ordinance.

#### **§ 130-6. Penalties.**

This Ordinance shall apply to any and all actions occurring on or after the effective date of this Ordinance. In response to a violation of this Ordinance, the Town of North Haven is empowered to:

- (a) Issue Cease and Desist Orders demanding abatement of the violation;
- (b) seek any appropriate legal relief, including immediate injunctive relief, as a result of any violation of this ordinance;
- (c) file a complaint with any other proper authority; and



- (d) 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 Town of North Haven.

The Town of North Haven may recoup from the offending person(s), jointly and severally, all costs, including experts, consultants and reasonable attorney's fees, that it incurs as a result of having to prosecute or remediate any violation of this Ordinance.

For any violation of this Ordinance, the Town of North Haven may also impose fines in the amount of \$250.00 per violation per day, or such other amount as is allowed by law, and seek any other remedies allowable under the law.

**§ 130-7.       Transportation.**

Nothing in this Ordinance shall be interpreted to ban the transportation of any product or by-product described herein on any roadway or real property within the Town of North Haven.

**§ 130-8.       Compatibility with other laws and severability.**

This Ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Ordinance imposes restrictions which are different from those imposed by any other ordinance, rule, regulation, or other provision of law, the provision which is more restrictive or imposes greater protective standards for human health and the environment shall control.

The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, paragraph, sentence, or clause of this Ordinance or the application thereof to any person, establishment, or circumstances is held to be invalid by a court of competent jurisdiction such invalidity shall not affect the other provisions or application of this Ordinance.

TOWN of NEWTOWN, CONNECTICUT

CODE OF ORDINANCES

Ordinance Prohibiting the Storage, Disposal or Use of Fracking Waste

xxx-01 Definitions for the Purposes of this Ordinance:

- 1) 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:
- 2) "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.
- 3) "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.
- 4) "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.
- 5) "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.
- 6) "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.
- 7) "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 Newtown.
- ~~8) As used in this Ordinance and from CGS 22a-220 (g), "collector" means any person who holds himself out for hire to collect solid waste on a regular basis from residential, business, commercial or other establishments.~~
- ~~9~~8) As used in this Ordinance, the term Town shall mean the Town of Newtown.

xxx-02 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 Town for any purpose is prohibited.
- 2) The ~~introduction~~ introduction of natural gas waste or oil waste into any wastewater treatment facility within or operated by the Town is prohibited.
- 3) The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the Town 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 Town.

xxx-03 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:

- 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 Town 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 Town shall include a provision stating that no materials containing natural gas or oil waste shall be provided to the Town.
- 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 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: "We \_\_\_\_\_ hereby submit a bid for materials, equipment and/or labor for the Town of Newtown. 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, subcontractor, 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 Newtown as a result of the submittal of this bid if selected."

#### xxx-04 Penalties

This ordinance shall apply to any and all actions occurring on or after the effective date of this ordinance. In response to a violation of this ordinance, the Town is empowered to a) issue "Cease and Desist" orders demanding abatement of the violation, b) seek any appropriate legal relief, including immediate injunctive relief, as a result of any violation of this ordinance; c) file a complaint with any other proper authority; and d) 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 Town of

Newtown. The Town may recoup from the offending person(s), jointly and severally, all costs, including experts, consultants and reasonable attorney's fees, that it incurs as a result of having to prosecute or remediate any infraction of this ordinance. Any person who violates this ordinance shall be liable for a fine of \$250 per ~~CT~~ [the General Statutes](#). The town may also pursue other penalties as applicable ~~defined in pursuant to the CT~~ General Statutes.

**Comment [DD1]:** Other towns have imposed a \$250 per day fine.

#### xxx-05 Enforcement:

Any designee authorized by the [Board of Selectmen of Newtown](#) may pursue penalties against any person(s) who commits violations of this ordinance. The involvement of any Town of Newtown officials will not require testing of waste products to determine chemical contents, this work will be done via contacting ~~CT~~ DEEP or other 3rd party analytical laboratories as is current practice [in the](#) Town of Newtown for other exposures to potentially hazardous chemical situations. Any designee authorized by the Board of Selectmen may request the Commissioner of CTDEEP pursue civil penalties defined by ~~CT~~ [the](#) General Statutes, as applicable.

**Comment [DD2]:** Other towns have given the First Selectman the authority to designate an enforcement officer.

**Comment [DD3]:** Provisions should be included here for the appointment of a citation hearing officer and appeal procedure pursuant to Conn. Gen. Stat. 7-152c. See for example Newtown Ordinance s. 216-22 and 216-23.

#### xxx-06 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~~ [Ordinance](#) are hereby declared to be severable.

#### xxx-07 Transportation

Nothing in this ordinance shall be interpreted to ban the transportation of any product or byproduct described herein on any roadway or real property within Newtown.

*Verbatim language for Sections 1-3 have passed in 9 CT municipalities: Andover, Ashford, Branford, Coventry, Middletown, Mansfield, Portland, Windham (includes Willimantic), and Windsor. These municipalities have individualized language in sections 4-6; As shown here, sections 4-6 is a composite of what has passed already in CT. Some towns have omitted section 7; it is not necessary, as nothing in the language defines or prohibits transportation. This draft ordinance is modeled after language crafted by legal counsel for Riverkeeper.*



Ryan Knapp &lt;knapp.newtown@gmail.com&gt;

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**Fwd: CCM Model Ordinance: Hydraulic Fracturing Waste Prohibition**

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**Susan Marcinek** <susan.marcinek@newtown-ct.gov>  
To: "Knapp, Ryan" <Knapp.Newtown@gmail.com>

Tue, Aug 7, 2018 at 3:38 PM

Ryan,

I saw this topic on your ordinance agenda and thought you might be interested in this template.

Sue

*Sue Marcinek  
Executive Assistant  
Office of the First Selectman  
3 Primrose Street  
Newtown, CT 06470  
(203) 270-4203  
(203) 270-4205 (FAX)*

----- Forwarded message -----

From: **CCM Public Policy and Advocacy** <[CPolicyandAdvocacy@ccm-ct.org](mailto:CPolicyandAdvocacy@ccm-ct.org)>  
Date: Tue, Aug 7, 2018 at 3:33 PM  
Subject: CCM Model Ordinance: Hydraulic Fracturing Waste Prohibition  
To:

Dear Municipal Leader:

Attached you will find a template model ordinance to prohibit hydraulic fracturing waste at the local level. This template, drafted by Murtha Cullina with input from CCM members, the construction industry and staff, serves to assist CCM member municipalities faced with growing pressures by the Food and Water Watch Association (FWWA) and others to enact an overly expansive ordinance seeking to ban hydraulic fracturing waste. The consequence of the ordinance language that FWWA has been advocating many towns to enact has paralyzed many of them from performing any infrastructure improvements or road projects, effectively chilling the economic development environment for many communities.

The model ordinance appropriately prohibits the use, sale and transport of hydraulic fracturing waste without adversely affecting economic development efforts. It also makes several references to state statute that seek to protect municipalities from liabilities related to the enforcement of such an ordinance, leaving the ultimate responsibility for enforcement to the state Department of Energy and Environmental Protection (DEEP).

CCM recommends that a municipality consult with their municipal attorney before proceeding and enacting a hydraulic fracturing waste prohibition ordinance. The attached model ordinance is a template to help guide our membership. Each municipality, through the advice of counsel, should feel free to amend and tailor the model ordinance to meet their respective situation and community needs.

For more information or if you have any questions, please contact [Donna Hamzy](#), Advocacy Manager, at 203-843-0705.

Sincerely,

Brian O'Connor, Director of Public Policy  
Connecticut Conference of Municipalities  
203.804.4658



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 **CCM Hydraulic Fracturing Waste Model Ordinance.pdf**  
137K

## Model Ordinance: Waste from Hydraulic Fracturing Prohibition

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

TOWN OF \_\_\_\_\_

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

#### I. PURPOSE

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

#### II. DEFINITIONS

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

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

### III. PROHIBITIONS

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

### IV. ENFORCEMENT

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





Ryan Knapp &lt;knapp.newtown@gmail.com&gt;

## Fwd: CCM Model Ordinance: Hydraulic Fracturing Waste Prohibition

Jennifer Siskind &lt;jsiskind@fwwlocal.org&gt;

Fri, Aug 10, 2018 at 5:08 AM

To: Quinn &lt;quinnka@aol.com&gt;

Cc: "knapp.newtown@gmail.com" &lt;knapp.newtown@gmail.com&gt;

Hi Kathy,

Thank you for forwarding the language and making inquiry. Regarding the CCM model:

**This is a limited definition & ban; Many types of waste can still enter towns and allowable uses are likely to cause contamination & other problems.**

The waste definition is limited by the definition of the process of hydraulic fracturing ii(5) or generated secondarily to the purpose of hydraulic fracturing. II(11), similar to the weak state temporary moratorium. CCM added in use exceptions and a new definition, Section II(4) "Oil", and added the word "oil" in to Section II(5) for the definition of "hydraulic fracturing". So waste from hydraulic fracturing of oil and gas wells is partially banned, due to exceptions for road spreading and road & driveway resurfacing &/or "similar construction &/or manufacturing processes", III b) & C). Please note:

- There are other processes used before and after hydraulic fracturing that produce the majority of the liquid and solid wastes from wells that are "fracked".
- Though "wastewater, wastewater solids, brine, sludge, drill cuttings" are listed in the CCM language, only these wastes that come from or are generated secondarily to the one process of hydraulic fracturing are partially banned.
- Many oil & gas wells do not use the hydraulic fracturing process, so wastes from these wells using another extraction process (acidizing) are not banned.
- These loopholes were recognized after bans for waste from hydraulic fracturing only were passed in NY from 2010-2013.
- Legal counsel with experience writing sound environmental law, public health and environmental experts, scientists and persons who work for the oil & gas industry worked together to craft new language using the terms "geologic and geophysical" and "extraction activities". The oil & gas extraction activity and extraction waste definitions close the previous mentioned loopholes. It was passed into law by 5 NY County Legislatures in 2014 & 2015. A 6th county passed the gas extraction waste language. 199 NY municipal corporations follow the laws and prohibitions now passed in CT (156 both oil & gas extraction waste, 43 gas extraction waste).
- Exceptions in III b) - If CTDEEP approves using oil & gas well brine & salts on roads for de-icing or dust control: This exception means CTDEEP can make the same mistakes that PADEP and NYDEC have when writing new regulations, and towns passing the CCM language won't be protected. Penn State University scientists released research recently confirming that brine spread in 14 PA townships has caused roads to be contaminated with lead and radioactive radium, and that toxins can also run-off. PADEP immediately cancelled road spreading for dust suppression after allowing it for years. NYDEC has not cancelled permits, and doesn't require any testing for radioactive materials in brine spread on roads. Public health and environmental advocates have been warning about contamination from road spreading for years. Radioactive radium & lead contaminated dust can be inhaled and ingested.
- Exceptions in III c) - Any contractor may mix any waste from hydraulic fracturing into "road or driveway resurfacing" projects, or "similar construction (*? parking lots?*) and/or manufacturing processes (*unclear what this means*). CCM may not be aware that permits for construction have

already been revoked in Pennsylvania. In addition to the risk of receiving poorly treated and inadequately tested materials (contaminated with radioactive radium, lead & other heavy metals), drill cuttings have a high silt content which risks slippage and costly remediation. Permits were issued in PA over 5 years, but are now rescinded. One of the permit holders states they stopped using these wastes in fill because they found it could not be built on. Marshall University had previously put out an engineering study citing radioactivity and silt/slippage issues as two of several reasons use in construction was not recommended in West Virginia. This study was commissioned by the WV legislature.

**With regard to the problems that CCM claims come from "overly expansive" language, legal counsel for the Town of Weston recently included this in their meeting packet: *"Attorneys in our firm representing towns that have passed similar ordinances have not encountered this issue, nor have they encountered a reduction in bids for town projects as a result. The attorneys in the CT Association for Municipal Attorneys also have not encountered these potential issues."***

Which towns are included in CCM's claim that are "paralyzed...from performing any infrastructure improvements or road projects"? Attached is a list of CT towns that have passed ordinances. If true, some CT town managers/administrators and public works departments need to be better informed, and I can provide information for them. There is no reason for any projects to be restricted; No hydrocarbons, petroleum or gas products are banned, including tar and emulsions used for asphalt, which are produced from refining petroleum.

Attached also please find a statement concerning Nassau County not having any issues for years. I'm confident that Albany, Cayuga, Clinton, Suffolk and Tompkins Counties in NY have continued to pave roads and use fill and gravel in construction over the past 3-4 years, as well, just not with poor quality and potentially contaminated wastes provided by the oil & gas drilling industry.

I remain available to speak with the Newtown Ordinance Committee and Board of Selectmen. I can provide references if needed.

Best,

Jen Siskind  
Local Coordinator  
Food & Water Watch  
860-633-1303  
860-918-0859 c

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**From:** Quinn <[quinnka@aol.com](mailto:quinnka@aol.com)>

**Sent:** Thursday, August 9, 2018 12:02:20 PM

**To:** Jennifer Siskind

**Subject:** Fwd: CCM Model Ordinance: Hydraulic Fracturing Waste Prohibition

Jennifer - here it is. Kathy

-----Original Message-----

From: Ryan Knapp <[knapp.newtown@gmail.com](mailto:knapp.newtown@gmail.com)>

To: Quinn <[quinnka@aol.com](mailto:quinnka@aol.com)>

Sent: Thu, Aug 9, 2018 11:54 am

[Quoted text hidden]

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**3 attachments**



**Doug Wood letter Nassau County Fracking Waste.pdf**  
110K



**List of local and state legislative actions concerning fracking wastes.pdf**  
141K



**Bulleled info fracking waste and SB 103.pdf**  
290K



52 Main Street • Port Washington • New York 11050 • T 516.883.0887 • [www.GrassrootsInfo.org](http://www.GrassrootsInfo.org)

May 10, 2018

To: Jeff Stella, Chair  
Stamford Public Health and Safety Committee

From: Doug Wood  
Senior Policy Director  
Grassroots Environmental Education

Nassau County, New York adopted a ban on fracking waste in 2012. The County legislature amended and further strengthened this law in 2014 with substantially the same definitions, prohibitions and a provision clause for contractors to sign, as also recently voted by the Stamford Board of Representatives.

Our organization was instrumental in drafting Nassau County's legislation that prohibits the application, sale, treatment or importation of fracking waste into the county. The ban in Nassau, which was the model for New York City's ban, and the recently passed Stamford ordinance, is a common sense solution to a real and documented threat to public health.

Grassroots has won numerous awards, including national awards from the EPA, for our work on emerging health issues. This issue - what to do with millions of tons of toxic waste from fracking operations - is an emerging public health crisis being faced by communities across the country.

The issue stems from the fact the Marcellus Shale contains large amounts of highly radioactive material buried deep underground, spread out in tiny specks, just like the gas which is trapped in tiny bubbles. Fracking in the Marcellus Shale creates a lot more radioactive waste than anyone expected, and it contaminates pretty much everything involved in the process, from the chemicalized wastewater to the muds and sludge and drill cuttings.

I have recently spoken with representatives of Nassau County Comptroller's Office who assure me that not a single problem has arisen because of the county's ban on toxic waste from fracking operations, or new products made from fracking waste. There have

been no lawsuits, no lack of supplies or suppliers, no interruption of deliveries or problems finding vendors. Nothing.

The ban passed in Stamford is clear, it's reasonable, it's responsible. Despite the claims of over-reach and dire consequences that might result, the language makes it very clear that Stamford is not banning oil products, tar and other emulsions derived from refining oil products, metal or concrete. The industry claims that recycling fracking waste is among the "best practices" of the industry, but I believe recycling radioactive material is not a best practice anywhere.

Should you have any questions, please contact me at (516) 883-0887 or email [daw@grassrootsinfo.org](mailto:daw@grassrootsinfo.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'DAW' with a long horizontal stroke extending to the right.

Douglas A. Wood

DW:nl



## 50 Local Ordinances Protecting CT Towns & Cities (cities in bold below)

### Banning Hydraulic Fracturing and Extraction Wastes

<u>Date</u>	<u>Town/City</u>	<u>Vote Type</u>	<u>Vote Count</u>
<b>Ordinance Banning Hydraulic Fracturing Process Wastes for Oil and Gas Wells</b>			
1. 03/15/15	Washington	Special Town Meeting	Unanimous
<b>Ordinances Banning Hydraulic Fracturing Process and All Other Extraction Activity Wastes for Oil and Gas Wells, Processed Wastes/By-products, Waste from Gas Storage (Underground &amp; LPG Wells) and Leachate</b>			
2. 10/05/15	Coventry	Special Town Meeting	Unanimous, 90-0
3. 10/26/15	Mansfield	Town Council	Unanimous
4. 06/01/16	Portland	Board of Selectmen	Unanimous
5. 10/06/16	Andover	Special Town Meeting	Unanimous, 143-0
6. 10/18/16	Windham	Town Council	Unanimous (includes <b>Willimantic</b> )
7. 11/21/16	Ashford	Special Town Meeting	35-3 approx.
8. 12/15/16	Branford	Representative Town Meeting	21-6-1
9. 01/03/17	<b>Middletown</b>	Common Council	10-2
10. 01/03/17	Windsor	Town Council	Unanimous
11. 03/08/17	<b>New London</b>	City Council	5-2
12. 03/27/17	Bloomfield	Town Council	Unanimous
13. 04/03/17	Hampton	Special Town Meeting	58-4
14. 04/12/17	Woodstock	Special Town Meeting	100-1
15. 04/20/17	Hebron	Board of Selectmen	Unanimous
16. 05/01/17	Lebanon	Annual Town Meeting	96-19
17. 05/08/17	Chaplin	Annual Town Meeting	14-6
18. 05/10/17	Litchfield	Special Town Meeting	126-8
19. 06/27/17	East Hampton	Town Council	Unanimous
20. 06/06/17	Bolton	Board of Selectmen	4-0-1
21. 06/07/17	Pomfret	Annual Town Meeting	120-4 approx.
22. 06/20/17	Willington	Town Meeting	100-1 approx.
23. 07/10/17	New Milford	Town Council	Unanimous
24. 08/07/17	Eastford	Special Town Meeting	Count unknown, Overwhelming yes
25. 08/15/17	Columbia	Board of Selectmen	Unanimous
26. 08/22/17	<b>Hartford</b>	Planning & Zoning	Land Use Prohibitions
09/11/17	<b>Hartford</b>	Court of Common Council	Unanimous

27. 09/12/17	Glastonbury	Town Council	Unanimous
28. 10/02/17	Milford	Board of Alderman	Unanimous
29. 10/10/17	<b>Bristol</b>	City Council	Unanimous
30. 10/11/17	Thompson	Special Town Meeting	Unanimous
31. 10/24/17	Griswold	Special Town Meeting	Unanimous, 50-0
32. 10/30/17	<b>Meriden</b>	City Council	Unanimous
33. 11/13/17	Stratford	Town Council	Unanimous
34. 12/04/17	Rocky Hill	Town Council	Unanimous
35. 02/05/18	South Windsor	Town Council	Unanimous
36. 02/13/18	Redding	Special Town Meeting	Unanimous, 65-0
37. 02/20/18	Wethersfield	Town Council	5-3
38. 02/26/18	Hamden	Town Council	Unanimous
39. 03/01/18	Southbury	Board of Selectmen	Unanimous
40. 03/13/18	Guilford	Board of Selectmen	Unanimous
41. 03/19/18	<b>New Haven</b>	Board of Aldermen	Unanimous
42. 04/09/18	Madison	Board of Selectmen	4-1
43. 04/11/18	Woodbridge	Board of Selectmen	5-1
44. 04/16/18	<b>Bridgeport</b>	City Council	Unanimous
45. 05/10/18	<b>Derby</b>	Board of Alderman	
46. 05/17/18	Clinton	Special Town Meeting & Referendum	Approx. 250-0 vote to go to Referendum Town Referendum Vote to pass 496-19
47. 05/21/18	<b>Stamford</b>	Board of Representatives	32-1-3, BoR vote held 5/7; Mayor returned 5/21
48. 05/22/18	<b>Norwalk</b>	Common Council	10-1-2
49. 06/05/18	Naugatuck	Board of Mayor & Burgesses	Unanimous
50. 06/25/18	North Haven	Special Town Meeting	Unanimous, 50-0 approx.

#### **State Legislative Actions (permanent ban fails 4x in 6 years)**

2013	Bill to ban hydraulic fracturing wastes from gas wells only dies in Energy & Technology Committee.
2014	SB 237 to ban hydraulic fracturing wastes from gas wells passes through committees and Senate. Language changed to future regulations (hazardous waste permits) on House floor. Public Act 14-200 passes mandating hydraulic fracturing wastes from gas wells be regulated by DEEP (future hazardous waste permits), following a temporary moratorium. Research carve-out allows permits for small quantities. Regulations must be submitted by DEEP by July 1, 2018.
2017	HB 6329 to ban hydraulic fracturing wastes from gas wells only passes House 141-6-4. Amendment for research carve-out would allow permits for small quantities. Not called for vote in Senate.
2018	Environment Committee raises Senate Bill 103 to ban certain hydraulic fracturing wastes from gas wells. Substitute Senate Bill 103 is JF'd by Environment Committee, vote 29-1, prohibiting hydraulic fracturing & other extraction activity wastes for oil & gas wells. Bill does not get voted on before session ends.



## **Protecting Connecticut from Toxic, Radioactive Fracking & Oil & Gas Extraction Wastes**

Current state law mandates that DEEP submit regulations for review, which means future permits. A temporary moratorium bans only some wastes, leaving loopholes for other wastes to enter the state. 2018 Senate Bill 103 was introduced to permanently ban these wastes from one process, hydraulic fracturing, from gas wells only. After public hearing, the Environment Committee passed a much stronger Substitute Bill that proposed banning wastes from oil & gas extraction activity. This bill was not called for a vote. A weak moratorium remains until regulations are final.

- The dangers from chemical and radioactive contamination pose unacceptable risks to health and safety, municipal and private property values and natural resources, including aquifers providing well water and surface waters.
- Chemicals and naturally-occurring toxins in fracking & other extraction wastes are known to cause multiple cancers, multiple organ damage, neurological and developmental problems, birth defects, embryo toxicity and other serious health problems.
- Radium 226 is radioactive for 4,000 years and decays into lead. It is known to cause breast, bone and liver cancers, and is associated with adult and childhood leukemia.
- Radioactive and chemical contamination has spread due to accidents, spills, leaching and discharge into waterways after treatment efforts. Over 6,600 spills have been documented in just 4 states, more than half of them due to moving and transporting fracking waste. Creek, river and lake waterbodies in PA are now contaminated with radioactive sediment.
- Regulations in other states have not stopped accidents, spills and leaks from contaminating soil, waterways, aquifers and drinking water. Over 50% of spills occurring at waste treatment plants occur due to equipment and employee error. There are no good options for bringing this waste to Connecticut to store, treat, dispose or re-use in construction or brownfield remediation fill, or for road spreading.
- Fracking and other processes used to produce oil & gas are creating billions of gallons of liquid wastes and hundreds of thousands of tons of solid wastes annually in NY & PA. 11,000 wells have been drilled, and an additional 80,000 wells may be drilled in coming years, significantly increasing the amount of waste. Waste is being shipped to at least 8 states.

### **Local Protection with Municipal Ordinance: 50 CT towns & cities have protected their communities from wastes with their legal authority to ban toxic wastes, pursuant to CT General Statute 7-148:**

- Andover, Ashford, Bloomfield, Bolton, Branford, Bridgeport, Bristol, Chaplin, Clinton, Columbia, Coventry, Derby, Eastford, East Hampton, Hampton, Glastonbury, Griswold, Guilford, Hamden, Hartford, Hebron, Lebanon, Litchfield, Madison, Mansfield, Meriden, Middletown, Milford, Naugatuck, New Haven, New London, New Milford, North Haven, Norwalk, Pomfret, Portland, Redding, Rocky Hill, Stamford, Stratford, Southbury, South Windsor, Thompson, Washington, Wethersfield, Willington, Windham/Willimantic, Windsor, Woodbridge, Woodstock.
- 400+ NY municipalities are protected from fracking wastes, due to laws passed by 15 NY county legislatures and local ordinances and regulations passed by town and city leaders. 5 NY Counties have the same bans passed locally in CT.
- The State of Vermont; Pelham, MA; Dozens of municipalities and counties in New Jersey have also passed waste bans.



**Parents and Grandparents:** A radioactive legacy is being left for future generations where spills, accidents and discharge have occurred. Radium 226, commonly found in shale drilling waste, has a radioactive half-life of 1,600 years, takes over 4,000 years to completely decay, decays into other radioactive elements and finally, lead. Areas in other states are now permanently contaminated and being left without clean-up.

**Persons on Well Water:** Spills and leaks have seeped into the ground and contaminated aquifers in other states. Yale University research found trace amounts of multiple chemicals used for fracking still remaining in well water 5 years after spills and leaching occurred. The costs for repeated testing, legal action and remediation often fall on property owners using well water. Restitution costs falling on the State of CT and municipalities may be exorbitant.

**Watershed:** Radioactive and chemical contamination has already occurred in other states where spills and discharge have occurred after treatment efforts. Bio-accumulation up the food chain with fishing and other recreational activities in contaminated areas may pose health problems, and future flooding may distribute contaminated sediment across large areas. Water intakes for drinking water downstream from treatment discharge may also pose problems. Small amounts of bromide can react synergistically with chlorine added to drinking water used to kill bacteria and create highly carcinogenic brominated trihalomethanes.

**Farming:** Where spills have occurred on farm land, nothing is growing 5-10 years later. The salt/bromide content is so high, it kills everything in the soil and it is no longer arable. Radioactivity and chemicals can be taken up by crops grown in the area, contaminating produce and animal feed, bio-accumulating up the food chain.

**Regarding Beneficial Re-use (BUD) Permits & Costs of Remediation:** The high risk of contamination makes re-use of wastes and by-products a costly endeavor if remediation is necessary. It cannot be known if toxins have been removed or if radioactivity has been properly tested for. The State of CT, and cities and towns can prevent contamination and risk of premature crumbling and slippage in infrastructure projects by banning fracking waste turned into by-products...such as using very fine frac sand in concrete, silt-laden drill cuttings in construction fill and brine or dewatered salts as de-icers.

The West Virginia legislature commissioned an engineering study for re-using solid fracking wastes. The study concluded it was not advised, due to radioactivity levels and high silt content, potential future slippage with costly remediation where used for road base or construction, and high costs for treatment and transport from well sites.

Many natural toxins, including arsenic, lead, radioactive materials, other heavy metals, and hazardous chemicals are found in fracking waste, and can contaminate by-products. Despite testimony from environmental and public health advocates about lack of monitoring, potential inadequate testing and treatment for radioactivity & chemicals, the State of Pennsylvania DEP issued permits for using solid wastes in construction fill and road base material. After five years, PADEP rescinded this policy echoing what they were told years earlier, citing "lack of transparency". Permits in PA for using waste in construction expired in 2017. Penn State University recently released research that lead, radioactive radium and high levels of chloride were being spread on PA roads and causing contaminated run off. In May 2018, PADEP also rescinded permits to spread brine on roads.

Example of CT costs for remediation: Greenwich has spent \$5.6 million for testing and partial remediation of PCB and arsenic contaminated fill brought in to build sports fields. It is estimated an additional \$14 million is needed to complete the remediation.

Types of Oil & Gas Drilling & Extraction Wastes	49 of 50 CT Ordinances	Moratoria & 2017 HB	<del>2018 Senate Bill 103 TBD</del> <b>UPDATE: NOT VOTED ON</b>
Gas Drilling Process Drilling Muds	X		X
Gas Drilling Process Drill Cuttings	X		X
Gas Leachate from Solid Wastes & Landfills	X		X
Gas Hydraulic Fracturing Flowback*	X	X	X
Gas Used Frac Sand from Flowback	X	X	X
Gas Production Process Brine	X	?	X
Gas Dehydration Process Brine	X	?	X
Gas Chemicals Used on Pad Surface	X	?	X
Gas Servicing Fluids for Equipment	X	?	X
Gas Underground Storage Waste	X		X
Gas LPG Well Storage Waste	X		X
Oil Drilling Process Drilling Muds	X		X
Oil Drilling Process Drill Cuttings	X		X
Oil Leachate from Solid Wastes & Landfills	X		X
Oil Hydraulic Fracturing Flowback*	X		X
Oil Used Frac Sand from Flowback	X		X
Oil Production Process Brine	X		X
Oil Chemicals Used on Pad Surface	X		X
Oil Servicing Fluids for Equipment	X		X

\* Flowback is a combination of hydraulic fracturing solution pumped into the well and materials from the shale deposit that mix into this solution underground, which then flows back to the surface for a few weeks after fracturing is completed. It includes water, industry-recycled contaminated fluids, chemicals, frac sand, remaining drill cuttings, brine and naturally-occurring toxins. Wells continue to produce toxic liquid waste & brine for years while producing oil & gas.



## **Understanding the Problems with Current State Moratoria Language**

State law temporarily prohibits waste from one process, hydraulic fracturing, *and other substances used for or generated secondarily to the purpose of hydraulic fracturing*...which is clearly defined as the process of pumping a fluid to fracture rock.

The wording "generated secondarily to the purpose of hydraulic fracturing" is vague. This wording may not include solid and liquid wastes that come from the drilling process, which happens for a month before hydraulic fracturing takes place.

It is unclear if brine that is produced many years after hydraulic fracturing is completed would be included.

Wastes derived from the dehydration process (removing brine & impurities from gas before it is shipped by pipeline) and storage process (holding natural gas in caverns underground or LPG well storage) may also not be included. These processes produce huge amounts of brine. State law does not cover drilling and extraction activity that do not use the hydraulic fracturing process, but these activities still produce large amounts of wastes. Also, the moratorium does not include any wastes from oil wells.

In response, CT towns are passing more comprehensive ordinances, already passed by 5 NY County legislatures, written by environmental attorneys, legislative advocates and professionals that work for the oil & gas industry. The moratoria banning only some wastes remains in effect until regulations are written and approved or until the CGA & Governor pass a permanent ban.

### **Incomplete information in CGA Office of Legislative Research Reports:**

1. 2014 error – An OLR bill summary initially stated that DEEP can ban fracking waste when writing regulations. This was incorrect. DEEP is required to submit regulations that bring hydraulic fracturing waste under federal hazardous waste guidelines. Once regulations are finalized, permits may be applied for to treat, dispose, store, transfer & use wastes. The error likely occurred because there is language which gives DEEP the discretion to specifically ban products used for "anti-icing, de-icing, pre-wetting or dust suppression" when writing regulations. DEEP may also choose to permit these products under conditions that the Commissioner deems necessary. The law lacks specific language banning re-use of wastes from the drilling process during the moratorium, though products for anti-icing, etc. are temporarily banned.
2. 2014, 2015 & 2017 OLR summaries initially mention hydraulic fracturing waste, then continuously refer to fracking waste. The additional drilling and extraction processes that are combined with hydraulic fracturing also produce wastes and are not explained by OLR as missing. Readers unfamiliar with extraction processes are left unaware that loopholes exist.
3. A 2017 OLR report on local ordinances was issued in December 2017, reporting that 19 towns passed ordinances. The accurate number for December 2017 was 34 towns and cities. This number has grown to 50 towns & cities, as of 6/25/18.

**For more information, short presentations for elected & appointed officials and community events, please contact: Jennifer Siskind, Local Coordinator, Food & Water Watch, [jsiskind@fwwlocal.org](mailto:jsiskind@fwwlocal.org)**





Ryan Knapp &lt;knapp.newtown@gmail.com&gt;

**Fwd: Plastic Waste**

2 messages

**Quinn** <quinnka@aol.com>

Mon, Aug 6, 2018 at 8:21 PM

To: knapp.newtown@gmail.com, vanvil77@aol.com

Article from Danbury Newstimes Aug. 6, 2018

-----Original Message-----

From: Quinn &lt;quinnka@aol.com&gt;

To: QuinnKA &lt;QuinnKA@aol.com&gt;

Sent: Mon, Aug 6, 2018 8:19 pm

Subject: Plastic Waste

**ENVIRONMENT****Plastic waste threatens Long Island Sound****Shore communities eye ban on straws, disposable bags***By Bill Cummings*

A movement to ban plastic bags that harm fish and other wildlife in Long Island Sound is slowly gaining traction along Connecticut's shoreline.

Towns from the New York border to Stonington are considering bans on plastic bags — the type grocery stores and other retailers hand out daily, as well as plastic straws and other products. But so far, only Greenwich and Westport have banned plastic bags.

Similar bans are being considered in Stamford, Norwalk, Newtown, Waterford and Mansfield, to name a few.

"It's become common in the ecosystem," said Bill Lucey, the Long Island Soundkeeper, referring to plastic bags and other products.

"It's coming into the Sound from the shoreline and from rivers," Lucey said. "This stuff can last for 100 years."

Connecticut's Beardsley Zoo in Bridgeport recently banned plastic straws and is now using only biodegradable food containers.

"Single-use plastics are a source of land and sea pollution that cause the death of birds, marine mammals and sea turtles," said Gregg Dancho, the zoo director. "We're proud of the first steps we've taken to be part of the solution."

In Massachusetts, 81 cities and towns have regulated plastic bags, either imposing a five- or 10-cent fee per bag or banning them outright.

**Plastic everywhere**

Lucey has seen the volume of plastic in Long Island Sound firsthand. He said boats towing a special net routinely pull up shellfish with plastic microfibers inside them.

Activists say plastic, whether in the form of a bag, bottle, straw or microfiber that slips through sewage treatment plants, causes severe damage to animals such as clams, fish, birds, turtles and seals.

"Plastic bags are ingested by sea turtles; it gets stuck in their stomach," Lucey said. "A fin whale in the Mediterranean Sea that recently died had 50 pounds of plastic in its stomach."

Lucey said dozens of species in Long Island Sound are threatened.

"There is a whole range of impacts, from big animals to microfeeders," Lucey said.

"We are working to define the problem and find solutions," Lucey said. "You can bring your own shopping bag to the store. There are technologies that can be put in sewer plants. Another solution is banning bags and straws."

A bill before the Legislature last year sought to slap a five-cent fee on plastic bags to discourage use. The legislation moved out of one committee, but was not put up for a vote in the Senate or House.

**'Straws and bags'**

The National Park Service estimates that Americans throw away 500 million single use plastic straws every day — enough to fill 46,444 school buses.

The United Nations says 8 million tons of plastic ends up in the oceans each year.

The Citizens Campaign for the Environment said a plastic bag is used for an average of only 12 minutes but can remain in oceans, landfills, parks and on beaches for thousands of years.

Robert Burg with the Long Island Sound Study, an arm of the federal Environmental Protection Agency, said the volume of plastic in the Sound is startling.

"We do cleanups along Long Island Sound and last year in one day we took 18,000 pounds of debris off the shore," Burg said.

"The top items collected were cigarette butts, which have plastic in them, plastic stirrers, straws and grocery bags," Burg said.

"Clearly, the evidence exists that plastic is being found on the shore, and it's coming from the shoreline as opposed to ocean currents," Burg said.

The Connecticut River, which winds throughout New England, is also a major source of plastic, as are other rivers that flow into the Sound, Burg said.

#### **Awareness campaign**

The Long Island Sound Study has begun a public awareness campaign to alert people to the growing problem of plastic.

"The campaign is focusing on not using single use material and to use reusable," Burg said.

Both Lucey and Burg said it's not known how much plastic is in the Sound and along its shores, although studies are under way to find out.

"We really have no feel for the volume," Lucey said. "The EPA does not have a protocol. But a lot of people are looking at it."

Lucey said the solution comes down to a choice between the convenience of plastic bags and the effort involved in bringing a reusable bag to a grocery store.

"People have to determine what the value is to have clean water," Lucey said. [bcummings@ctpost.com](mailto:bcummings@ctpost.com)

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**Ryan Knapp** <[knapp.newtown@gmail.com](mailto:knapp.newtown@gmail.com)>

Wed, Aug 8, 2018 at 7:40 PM

To: Judit DeStefano <[juditnewtownlc@gmail.com](mailto:juditnewtownlc@gmail.com)>, Christopher Eide <[chriseide4newtown@gmail.com](mailto:chriseide4newtown@gmail.com)>, Chris Smith <[chrissmith.newtown@gmail.com](mailto:chrissmith.newtown@gmail.com)>, Jay Mattegat <[jaymattegat@gmail.com](mailto:jaymattegat@gmail.com)>, Paul Lundquist <[Plundquist.Newtown@gmail.com](mailto:Plundquist.Newtown@gmail.com)>, jordana bloom <[jordanabloom.newtown@gmail.com](mailto:jordanabloom.newtown@gmail.com)>

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*Ryan W. Knapp*  
Legislative Council  
Town of Newtown



Ryan Knapp &lt;knapp.newtown@gmail.com&gt;

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**Form submission from: Contact the Legislative Council**8 messages

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**Rowen Villamil via Newtown CT** <vtstdmailer@vt-s.net>

Sat, Aug 11, 2018 at 1:40 PM

Reply-To: Rowen Villamil &lt;Roclimber5@gmail.com&gt;

To: knapp.newtown@gmail.com

Submitted on Saturday, August 11, 2018 - 1:40pm

Submitted by user: Anonymous

Submitted values are:

Your name: Rowen Villamil

Your e-mail address: Roclimber5@gmail.com

Subject: Plastic Bag Ban

Message: I don't do this often, I don't send emails to legislators unless I consider it to be extremely important to me or society in general. Plastic bags are terrible to every kind of animal on this planet yet they aren't necessary for us to live. It is an easy concept, ban plastic bags motivate other people to do so and in return we will live in a healthier environment.

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**Nancy Bocian via Newtown CT** <vtstdmailer@vt-s.net>

Sat, Aug 11, 2018 at 3:01 PM

Reply-To: Nancy Bocian &lt;nbocian19@gmail.com&gt;

To: knapp.newtown@gmail.com

Submitted on Saturday, August 11, 2018 - 3:01pm

Submitted by user: Anonymous

Submitted values are:

Your name: Nancy Bocian

Your e-mail address: nbocian19@gmail.com

Subject: Plastic bag ban

Message:

I know that you've been considering a plastic bag ban. I strongly urge you, as policy makers for Newtown, to ban something that's clogging our oceans and helping to contaminate our environment.

Please, let Newtown be one of the environmental leaders in Fairfield County.

Ban plastic bags!

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**David Ackert via Newtown CT** <vtstdmailer@vt-s.net>

Sat, Aug 11, 2018 at 6:51 PM

Reply-To: David Ackert &lt;dave@maplecraftfoods.com&gt;

To: knapp.newtown@gmail.com

Submitted on Saturday, August 11, 2018 - 6:51pm

Submitted by user: Anonymous

Submitted values are:

Your name: David Ackert

Your e-mail address: dave@maplecraftfoods.com

Subject: Ban on plastic bags

Message: Hello. I'm Dave Ackert, resident in Sandy Hook, and owner of Maple Craft Foods LLC. I'm writing to voice my family's strong support for banning the use of plastic bags here in Newtown. We shop in other towns in CT, and elsewhere, where they've already instituted such a ban, and nobody there bats an eye. It has become second nature to bring a reusable bag with you and/or



use paper bags available at the checkout counters. None of the managers at the stores that we service in those towns have anything negative to say about the bans, as it has become just another part of their routine business practices. Its time for Newtown to become a regional leader on this environment no-brainer issue. We feel the same way about plastic straws...there's no need for them either.. Please don't hesitate to reach out with any questions at all. Thank you. Dave Ackert, 6 Cider Mill Rd., Sandy Hook.

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**David Ackert via Newtown CT** <vtsgmailer@vt-s.net>  
Reply-To: David Ackert <Dave@maplecraftfoods.com>  
To: knapp.newtown@gmail.com

Sat, Aug 11, 2018 at 8:21 PM

Submitted on Saturday, August 11, 2018 - 8:21pm

Submitted by user: Anonymous

Submitted values are:

Your name: David Ackert

Your e-mail address: [Dave@maplecraftfoods.com](mailto:Dave@maplecraftfoods.com)

Subject: Plastic Bag Ban

Message: Just a quick follow-up to my last note. Westport enacted a plastic ban 9 years ago. They have the exact same population as Newtown. Conservative estimates there were that they were using 3 Million plastic bags annually before the ban. The ban there has prevented 27MM plastic bags from polluting the land & water!! Stores there were also concerned that people would drive to nearby towns to shop if Westport enacted their ban. Those concerns never manifested themselves - they haven't lost any business - Westport is half the size as Newtown, geographically. Its ridiculous to think we'd drive twice the distance to do so. Thank you.

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**Constance Sullivan via Newtown CT** <vtsgmailer@vt-s.net>  
Reply-To: Constance Sullivan <cbsullivan53@gmail.com>  
To: knapp.newtown@gmail.com

Sat, Aug 11, 2018 at 9:44 PM

Submitted on Saturday, August 11, 2018 - 9:44pm

Submitted by user: Anonymous

Submitted values are:

Your name: Constance Sullivan

Your e-mail address: [cbsullivan53@gmail.com](mailto:cbsullivan53@gmail.com)

Subject: Ban Plastic Bags

Message:

I support a ban on plastic bags and a fee for paper bags. I hope you will also. Newtown is way behind in support of green initiatives and this is an important one. Thank you for your consideration in this matter.

Connie Sullivan

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**Angela Thill via Newtown CT** <vtsgmailer@vt-s.net>  
Reply-To: Angela Thill <aithill@charter.net>  
To: knapp.newtown@gmail.com

Sat, Aug 11, 2018 at 10:08 PM

Submitted on Saturday, August 11, 2018 - 10:08pm

Submitted by user: Anonymous

Submitted values are:

Your name: Angela Thill

Your e-mail address: [aithill@charter.net](mailto:aithill@charter.net)

Subject: Plastic Bag Ban

Message: Please pass a ban on the use of plastic bags in Newtown. We have a

responsibility to protect the environment. Paper bags and reusable bags are better for the Earth!!! Thx!

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**Gina Musumeci via Newtown CT** <vtstdmailer@vt-s.net>  
Reply-To: Gina Musumeci <gsmusumeci@gmail.com>  
To: knapp.newtown@gmail.com

Sun, Aug 12, 2018 at 4:46 AM

Submitted on Sunday, August 12, 2018 - 4:46am

Submitted by user: Anonymous

Submitted values are:

Your name: Gina Musumeci

Your e-mail address: [gsmusumeci@gmail.com](mailto:gsmusumeci@gmail.com)

Subject: Ban on plastic bags/fee for paper bags

Message:

Legislative Council:

Firstly, thank you for the work you do to make Newtown such a wonderful home for my family and me, and so many of our community members. It's a truly special place and although we've only been here for a few years, it's our home.

The reason for my email is to inquire about pushing forward a ban on plastic bags in Newtown, CT businesses. Given what we know about the devastating impact of plastic on our environment, it seems only logical that we would enact any legislation that might reduce harm. I would like to better understand the council's thinking here, and any hesitations you or fellow community members have about this move forward for our town.

Thank you,

Gina Musumeci

16 Split Rock Road

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**Jennifer Killin via Newtown CT** <vtstdmailer@vt-s.net>  
Reply-To: Jennifer Killin <jenkillin@yahoo.com>  
To: knapp.newtown@gmail.com

Sun, Aug 12, 2018 at 5:54 AM

Submitted on Sunday, August 12, 2018 - 5:53am

Submitted by user: Anonymous

Submitted values are:

Your name: Jennifer Killin

Your e-mail address: [jenkillin@yahoo.com](mailto:jenkillin@yahoo.com)

Subject: Support for Plastic Bag Ban

Message:

I would like to express my enthusiastic support for a plastic bag ban in Newtown. Many other towns have successfully enacted such bans with no resultant loss of business from customers. I shop at Caraluzzis several times a week, and already bring my own reusable bags most of the time. My shopping habits would not change at all. We are custodians of this planet, and it is our responsibility to maintain its integrity for all life, including future generations.

I am currently vacationing in the UK, where plastic bags cost 5p. When I lived in Albuquerque, Whole Foods would give a 5 cent credit for every reusable bag. These types of incentives could be used in addition to a ban, or during a transitional period. Newtown could also approve a trial period of, say, 6 months. This would ease the minds of businesses concerned about losing customers.





Ryan Knapp &lt;knapp.newtown@gmail.com&gt;

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**Form submission from: Contact the Legislative Council**

1 message

**Betsy Litt via Newtown CT** <vtsdmailer@vt-s.net>

Mon, Aug 13, 2018 at 2:40 PM

Reply-To: Betsy Litt &lt;betsylitt@gmail.com&gt;

To: knapp.newtown@gmail.com

Submitted on Monday, August 13, 2018 - 2:40pm

Submitted by user: Anonymous

Submitted values are:

Your name: Betsy Litt

Your e-mail address: [betsylitt@gmail.com](mailto:betsylitt@gmail.com)

Subject: Plastic bag ban &amp; paper bag fee

Message:

Our oceans are filled with life. And now they're also filled with plastic.

According to the non profit, non partisan Ocean Conservancy, there are already ca 150 million metric tons of plastic in the oceans, and an additional 8 million metric tons end up in the oceans every single year.

Birds, turtles, porpoises, whales and other marine life eat the plastic, mistaking it for food; it interferes with feeding and nutrition, and contaminates them with toxins. These toxins also contaminate the people who eat the seafood.

Plastic bags are also a blot on our towns natural beauty. They were made to last forever, and they just about do; they don't degrade. They are also made from petroleum, a non renewable resource. Some day we will have affordable biodegradable plastics, but that's a long way off.

What can we do? Ban plastic bags! Of course supermarkets and other retailers don't want this; change is hard. But in fact, it will save them money, because now they have to pay for plastic bags. Adding a 10 cent tax on paper bags would provide revenue for retailers, and encourage the use of reusable canvas bags.

Please vote for a plastic bag ban and paper bag fee, so we can help sustain our oceans and wildlife, and keep Newtown beautiful.

Thank you.



Ryan Knapp <knapp.newtown@gmail.com>

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## Form submission from: Contact the Legislative Council

1 message

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**Elyse Hoffmann via Newtown CT** <vtstdmailer@vt-s.net>

Tue, Aug 14, 2018 at 3:57 PM

Reply-To: Elyse Hoffmann <hoffmannelyse@gmail.com>

To: knapp.newtown@gmail.com

Submitted on Tuesday, August 14, 2018 - 3:57pm

Submitted by user: Anonymous

Submitted values are:

Your name: Elyse Hoffmann

Your e-mail address: [hoffmannelyse@gmail.com](mailto:hoffmannelyse@gmail.com)

Subject: single use plastic bag ban

Message: I support the ban on single use plastic bags



Ryan Knapp &lt;knapp.newtown@gmail.com&gt;

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**Form submission from: Contact the Legislative Council**

1 message

**Vanessa Villamil via Newtown CT** <vtstdmailer@vt-s.net>

Thu, Aug 16, 2018 at 7:12 PM

Reply-To: Vanessa Villamil &lt;vanvil77@aol.com&gt;

To: knapp.newtown@gmail.com

Submitted on Thursday, August 16, 2018 - 7:12pm

Submitted by user: Anonymous

Submitted values are:

Your name: Vanessa Villamil

Your e-mail address: [vanvil77@aol.com](mailto:vanvil77@aol.com)

Subject: Plastic bag ordinance

Message:

I am copying a letter from the chairman of the New Castle Sustainability Advisory Board on the subject of the single use bag ordinance in that town. I hope it is helpful.

March 4, 2018

On January 1, 2017 New Castle's Reusable Bag Law went into effect. The law motivates shoppers in New Castle to use reusable bags or to decline bags when they aren't necessary. The law prohibits retailers from providing single-use plastic carry-out bags everywhere and requires that retailers who provide over 90% of carry-out bags charge a minimum fee of 10 cents per paper bag.

When we first proposed the law there were concerns by some people that residents would suffer a hardship, that retailers would lose business to neighboring municipalities, and that generally it would be detrimental to New Castle. After all, no other municipality in New York State had a comprehensive bag law.

We investigated best practices and results from municipalities around the country, the same best practices and results we have shared with sustainable leaders in Greenwich and other communities. We found that similar laws neither hurt the municipalities or their commercial sectors.

With support from the hundreds of residents who wanted the law, our elected officials showed the leadership required to protect the next generation by passing the law.

Since that time, we have gained a new supermarket, and it is extremely successful. The store is on the edge of the town and attracts residents from other towns that don't yet have a Reusable Bag law. They report that they are using 40% fewer bags than they would have without the law. A pharmacy reports they are using 75% fewer bags. Our businesses are saving money and our residents are proud of what they accomplished. A realtor told us that people looking for a home outside New York City come for a visit and are thrilled to find no plastic bags and such a sustainable town. We're building value in New Castle.

We look forward to Greenwich, CT joining New Castle in leading the effort toward a more sustainable world.

Best regards,

Steven Wolk Chairperson

New Castle Sustainability Advisory Board | [newcastlesab.org](http://newcastlesab.org)