



TOWN COUNCIL • TOWN OF PROSPECT, CT 06712-1699  
36 CENTER STREET (203) 758-4461

Town of Prospect  
Public Hearing

Notice is hereby given to Electors of the Town of Prospect that a Public Hearing will be held Tuesday, October 2, 2018 @ 6:300 p.m. at the Prospect Town Hall, 36 Center Street, on the following Town Ordinances:

- 1)Amendment to Ordinance Concerning Prohibition on Blocking of Intersections  
(Ordinance #85-12-15-15)
- 2)Ordinance Prohibiting Waste Associated with Natural Gas and Oil Extraction
- 3)Citation Hearing Procedure

Jeff Slapikas, Chairman  
Prospect Town Council

Dated at Prospect, CT  
This 21st day of September, 2018

TOWN OF PROSPECT, CONNECTICUT

ORDINANCE NO \_\_\_\_\_

Amendment to Ordinance Concerning Prohibition on Blocking of Intersections  
(Ordinance # 85-12-15-15)

It is hereby resolved that the Town of Prospect amend Section 2.a) of the Town of Prospect Ordinance, "PROHIBITION ON BLOCKING OF INTERSECTIONS", so as to add the following:

"(2) the northbound lane of Waterbury Road (Route 69) at 26 New Haven Road."

**TOWN OF PROSPECT**  
**Ordinance # \_\_\_\_\_**  
**Ordinance Prohibiting Waste Associated with Natural Gas and Oil Extraction**

**RESOLVED,**  
**WHEREAS,**

It is in the interests of the Town of Prospect, acting by the members of the Town Council, to protect and preserve public health and safety, property and the natural resources of the Town of Prospect, including but not limited to water and land, now and for generations of citizens in the future;

Natural gas and oil extraction activities involve the use of chemical and hazardous materials during a multi-phase process including drilling, hydraulic fracturing, production, well maintenance, workover operations, and storage; and

Liquid and solid wastes associated with such activities are contaminated with chemicals and naturally-occurring toxins that come from the ground, including but not limited to radioactive materials; and

These wastes can contain radioactive elements and other toxins, and may threaten the public health and safety, and economic well-being of communities, as businesses, consumers, and residents depend on clean drinking water, surface water, property, and natural resources; and

Toxins present in these wastes can contaminate waters, soils and natural resources of Prospect and impact public health and safety where use, leaching, spills, leaks, run-off and discharge into waterways after treatment effort occurs; and

The Town of Prospect is and should be a leader in protecting public health and safety, and our natural resources, including water supplies and water resources for generations to come; and

Protection of public health and safety, ground and surface waters, property, and natural resources in the Town of Prospect is better accomplished by prevention of contamination and environmental degradation, instead of costly remediation of degraded environments after contamination; and

In order to protect public health and safety, and the quality of natural resources and property within the Town of Prospect, it is necessary to adopt an ordinance prohibiting storage, handling, treatment, disposal and use of all waste associated with natural gas and oil extraction, as defined in the ordinance, the text of which is set forth below.

Now, therefore, the Town Council hereby adopts An Ordinance Prohibiting Waste Associated with Natural Gas and Oil Extraction within the Town of Prospect, as set forth below:

**TOWN OF PROSPECT, CONNECTICUT**  
**ORDINANCE NO \_\_\_\_\_**  
**Ordinance Prohibiting Waste Associated with Natural Gas and Oil Extraction**

**Section 1. Definitions:** For the purpose of this ordinance, the following terms, phrases, and words shall have the meanings given here, unless otherwise clearly indicated by the context:

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

**Section 2. 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 the Department of Energy & Environmental Protection (“DEEP”) or any other regulatory body, on any road or real property located within the Town 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 or into any pipes or other conduits operated by or for the

Town that connect to a wastewater treatment facility that accepts waste from 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, or into any municipal or residential solid waste disposal container within 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 of Prospect.

### **Section 3. Municipal bid and contract provisions**

- 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 of Prospect.
- 3) The following statement, which shall be a sworn statement under penalty of false statement, 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 such road or real property within the Town of Prospect: *“We \_\_\_\_\_ hereby submit a bid for materials, equipment and/or labor for the Town of Prospect. The bid is for bid documents titled \_\_\_\_\_. We hereby certify under penalty of false statement 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 as a result of the submittal of this bid if selected.”*

### **Section 4. Penalties**

Any person or entity who violates this ordinance shall be liable for a civil penalty of \$250 per day for each day the violation or any condition or damage caused by the violation continues or is not fully remediated or repaired. Town may also pursue, or may request that DEEP pursue, such other penalties as may be authorized or permitted by the Connecticut General Statutes or DEEP regulations (as the same may be adopted or amended from time to time), or under other applicable law.

### **Section 5. Enforcement**

- 1) This ordinance is specifically designated for enforcement by citations issued by Town of Prospect police officers and the citation hearing procedure established by Ordinance

[ ] of the Prospect Code of Ordinances, as it may be amended from time to time, shall be followed.

- 2) In response to a violation of this ordinance, the Town is also empowered to a) seek any appropriate legal relief, including immediate injunctive relief and any relief provided by the Connecticut General Statutes (as the same may be adopted or amended from time to time); and/or b) file a complaint with any other proper authority.
- 3) The Mayor, or any Town official designated by the Mayor, may engage the assistance of DEEP or third-party testing facilities to determine the chemical contents of any waste products suspected to violate the terms of this ordinance.
- 4) All remedies and penalties hereunder shall be cumulative, such that two or more remedies may be pursued or imposed for the same violation.

### **Section 6. Severability**

The provisions of this ordinance are severable, such that, if any clause, sentence, paragraph, subdivision, section or part of this ordinance 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, 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 its application to the person, entity, or circumstance identified in such order or judgment.

### **Section 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.

TOWN OF PROSPECT  
ORDINANCE NO \_\_\_\_\_  
CITATION HEARING PROCEDURE

Section 1     Purpose.

The purpose of this chapter is to establish a citation hearing procedure in accordance with C.G.S. §§ 7-148(c)(10)(A), 7-152b and 7-152c to be followed in all instances when citations are issued by Town of Prospect police officers.

Section 2     Hearing procedure.

A. Ordinances of the Town may be enforced by citations issued by Town of Prospect police officers, provided that the ordinances have been designated specifically by the Town for enforcement by citation in the same manner in which they were adopted, and, subject to Section 3 below, the police officer issues a written warning providing notice of the specific violation before issuing the citation.

B. The Mayor shall appoint one or more citation hearing officers, who shall be other than police officers or employees or persons who issue citations, to conduct the hearings authorized by this section.

C. After a citation has been issued and the fine or penalty has not been paid, the Town shall send notice to the alleged violator no later than 12 months after the expiration of the final period for the uncontested payment of fines, penalties, costs or fees for any citation issued under any ordinance of the Town for an alleged violation. Such notice shall inform the violator of the following:

- (1) The allegations against the violator and the amount of the fines, penalties, costs or fees due.
- (2) That the alleged violator may contest his liability by delivering in person or by mail written notice within 10 days of the date of the original notice to said violator that he desires to contest his liability before a citation hearing officer.
- (3) That filing a request for a hearing shall cause the daily accrual of civil penalties to cease from the date such filing is hand-delivered or mailed to the Town of Prospect Police Department until the date the hearing officer renders a decision, unless, during such period, the violation of the ordinance for which the citation was issued is expanded or increased.
- (4) That if the alleged violator does not demand such a hearing, an assessment and judgment shall be entered against him.
- (5) That such judgment may issue without further notice.

D. If the alleged violator wishes to admit liability for any alleged violation, he may,

without requesting a hearing, pay the full amount of the fines, penalties, costs or fees in person or by mail to the Prospect Police Department by check made out to the "Town of Prospect". Any alleged violator who does not deliver or mail a written demand for a hearing within 10 days of the date of the first notice provided in Subsection C above shall be deemed to have admitted liability, and the police officer shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by law and shall follow the procedures set forth in Subsection E below.

E. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of such notice, provided that the hearing officer shall grant, upon good cause shown, any reasonable request by an interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by a police officer shall be filed and retained by the Town, shall be deemed to be a business record within the scope of C.G.S. § 52-180 and evidence of the facts contained therein. The presence of the police officer shall be required at the hearing if such person so requests. The alleged violator shall appear at the hearing and may present evidence in his behalf. A designated Town official, other than the hearing officer, may present evidence on behalf of the Town. If the alleged violator fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable ordinance. The hearing officer may accept from such alleged violator copies of police reports, motor vehicle department documents and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. If the offense consists of a motor vehicle parking violation, proof of the registration number of the motor vehicle involved shall be prima facie evidence in all proceedings that the owner of such vehicle was the operator thereof, provided that in the case of a leased or rented motor vehicle, such proof shall be prima facie evidence in any proceeding that the lessee was the operator thereof. The hearing officer shall announce his decision at the end of the hearing. If he determines that the alleged violator is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the ordinance.

F. If such assessment is not paid on the date of its entry, the hearing officer shall send by first-class mail a notice of the assessment to the person found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the superior court for the geographical area in which the Town is located, together with the appropriate entry fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The Clerk of the court shall enter judgment in the amount of such



record of assessment and court costs of \$8 against such person in favor of the Town. Notwithstanding any other provision of the General Statutes, the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.

G. The person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to C.G.S. § 52-259, in the superior court for the geographical area in which the Town is located, which shall entitle such person to a hearing in accordance with the rules of the judges of the superior court.

Section 3      Issuance of written warning.

In those instances where there is time to do so and where a continuing violation is not causing immediate or significant harm, a written warning providing notice of the specific violation shall be sent by first-class mail or hand-delivered prior to issuing the citation.

Section 4      Amount of penalty

Notwithstanding any provisions pertaining to fines, penalties, fees, etc. to the contrary in any of the ordinances to which this process shall apply as listed in Section 6 hereof, if such ordinance is enforced through the citation process herein, the penalty imposed for any single violation of such ordinances shall be \$150 per violation, unless otherwise specifically provided by the General Statutes or in section 6 below. For ordinances not listed in Section 6 hereof that include provisions specifically allowing for enforcement through the citation process herein, the penalty imposed for any single violation shall be as set forth in such ordinance if a penalty is included, and if not, it shall be \$150 per violation unless otherwise specifically provided by the General Statutes. For any violation enforced through the citation process herein, each day that a violation continues from the date of the Citation shall constitute a separate violation.

Section 5      Disposition of money received.

All moneys received pursuant to the procedure set forth above shall be remitted to the Town of Prospect Mayor's Office.

Section 6      Applicability; amended ordinances.

Each of the following ordinances is amended to add the following section:

Section \_\_ Enforcement and penalties.

In addition to any other methods of enforcement provided for in this ordinance, this ordinance has been specifically designated for enforcement by citations issued by Town of Prospect police officers and the citation hearing procedure established by Ordinance \_\_\_\_\_ of the Town of Prospect Code of Ordinances shall be followed.

| <b>Ordinance Number</b> | <b>Ordinance Subject</b>                        | <b>Number of Section or Paragraph to be Added</b> |
|-------------------------|---|---|
| 4-07-08-52              | DRAINING OF PRIVATE PROPERTY ONTO TOWN HIGHWAYS | (A)   |
| 16-05-19-60             | TRAILERS  | V.C.  |
| 36-03-18-75             | LITTERING                                       | 3.  |
| 46-12-17-85             | LANDFILL ORDINANCE                              | 9   |
| 48-03-03-87             | DOG CONTROL*                                    | 5   |
| 51-12-15-87             | COLLECTION AND DISPOSAL OF SOLID WASTE          | 5-1   |
| 53-12-04-90             | RECYCLING                                       | 12-1  |
| 55-09-01-92             | HOUSE NUMBERING                                 | 6   |
| 57-02-24-93             | SOLICITATION                                    | 6-1   |
| 60-10-05-93             | ALARM SYSTEMS*                                  | (d)(1)  |
| 68-07-01-03B            | USE OF TOWN PARKS                               | V.B.  |
| 74-03-01-05             | FIRE PREVENTION/ OPEN BURNING                   | 5.(d)   |
| 76-03-21-06             | STREET EXCAVATION AND OBSTRUCTION               | IV.C.(i)  |
| 79-09-01-09             | POLICE PROTECTION AT CONSTRUCTION SITES         | 3.  |
| 84-12-15-15             | SNOW DISPOSAL AND PROPERTY DAMAGE               | 5.  |
| 85-12-15-15             | BLOCKING INTERSECTIONS                          | 3.  |

\*The penalty for these ordinances shall not be \$150 per violation, but instead shall be as set forth in such ordinances.