

CITY OF DENTON, TEXAS

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENTON, TEXAS, AMENDING CHAPTER 16, "LICENSES, PERMITS AND BUSINESS REGULATION," OF THE CODE OF ORDINANCES OF THE CITY OF DENTON, TEXAS, BY ADDING A NEW ARTICLE VII, "PROHIBITION OF HYDRAULIC FRACTURING," GENERALLY PROVIDING THAT HYDRAULIC FRACTURING OPERATIONS ARE PROHIBITED IN THE CITY OF DENTON; MAKING FINDINGS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, as a Texas home-rule municipality pursuant to Article II, Section 5, of the Texas Constitution, the City of Denton, Texas ("City"), may enact regulations not inconsistent with the general laws of the State of Texas in the interest of the health, safety and welfare of the citizens of the City; and

WHEREAS, natural gas drilling and production operations in general involve or otherwise impact the City's environment, infrastructure and related public health, welfare and safety matters, including but not limited to noise issues, road repair issues due to use of heavy equipment, site security and signage issues, issues related to operating hours, venting of gas, fire suppression issues, lighting issues, containment systems, hazardous materials management, spill issues, operator insurance issues, environmental impairment matters and other regulatory issues; and

WHEREAS, there is an abundance of reports, studies, information and data about the effects of natural gas drilling on public health, welfare and safety, some of which reports, studies, information and data are contradictory, and due to such, many of the City's residents have undertaken extensive study to determine what, if any, effects natural gas drilling may have on the public health, welfare and safety of Denton and its residents; and

WHEREAS, the well stimulation process known as hydraulic fracturing is used to extract oil, gas, and other hydrocarbons through the underground injection of water, gels, acids or gases, sands or other proppants along with chemical additives, many of which chemicals are known to be toxic; and

WHEREAS, during hydraulic fracturing, chemicals and waste fluid pumped into such wells may be introduced into and could contaminate drinking water aquifers; and

WHEREAS, it is the purpose of this Ordinance to protect the public health, safety and welfare, the environment, and property values by prohibiting hydraulic fracturing within the City of Denton, Texas; and

WHEREAS, this Ordinance is enacted pursuant to the right of the residents of the City of Denton to govern their own community, specifically with regard to the well stimulation process known as hydraulic fracturing, as referenced in this Ordinance; and

WHEREAS, the citizens of Denton are seeking to protect themselves from the dangers associated with hydraulic fracturing, including ground and surface water contamination, air pollution, property devaluation, and other threats to the public safety, health, and welfare; and

WHEREAS, more than ten years of experience has proved that meaningful limitations concerning hydraulic fracturing, along with other land use provisions, are ineffective for a variety of reasons, including both legal and regulatory; and

WHEREAS, the citizens of Denton recognize that their shared values of environmental and economic sustainability and a commitment to renewable forms of energy cannot be achieved if these goals are routinely thwarted by oil and natural gas producers and corporations; and

WHEREAS, it is neither the intent nor the purpose of this Ordinance to rezone property and/or otherwise engage in land use regulation authorized by Chapter 211 of the Texas Local Government Code, as

amended; rather, it is the intent of this Ordinance to regulate certain aspects of business operations that impact the public safety, health, and welfare; and

WHEREAS, the citizens of Denton believe that the protection of the City's residents, neighborhoods, community integrity, and the natural environment is an appropriate purpose for the adoption of this Ordinance and as such, the City is legally authorized to adopt this Ordinance pursuant to its police powers.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENTON, TEXAS, THAT:

#### SECTION 1

The matters and facts recited in the preamble to this Ordinance are hereby found and determined to be true and correct and incorporated herein by reference as if fully set forth herein.

#### SECTION 2

From and after the effective date of this Ordinance, Chapter 16, "Licenses, Permits and Business Regulation," of the Code of Ordinances of the City of Denton, Texas, is hereby amended by adding a new Article VII, "Prohibition of Hydraulic Fracturing," to read as follows:

#### ARTICLE VII PROHIBITION OF HYDRAULIC FRACTURING

##### Sec. 14.200. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fluid means any material or substance which flows or moves whether in semi-solid, liquid, sludge, gas, or any other form or state.

Gas means all natural gas, whether hydrocarbon or non-hydrocarbon, including hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casinghead gas, and all other fluid hydrocarbons not defined as oil.

Hydraulic fracturing means the process of directing pressurized fluids containing any combination of water, proppant, and any added chemicals to penetrate tight formations, such as shale or coal formations, that subsequently require high rate, extended flowback to expel fracture fluids and solids during completions.

Oil means crude petroleum, oil, and all hydrocarbons, regardless of specific gravity, that are in the liquid phase in the reservoir and are produced at the wellhead in liquid form.

Oil and gas means both oil and gas, or either oil or gas, as the context may require to give effect to the purposes of this article.

Person means any person, firm, association of persons, company, corporation, or their agents, servants, or employees.

##### Sec.14.201 Prohibition of Hydraulic Fracturing.

It shall be unlawful for any person to engage in hydraulic fracturing within the corporate limits of the City.

##### Sec. 14.202 Penalty.

The violation of or noncompliance with this article by any person, firm, association of persons, company, corporation, or their agents, servants, or employees shall be punishable as a misdemeanor and upon conviction, such person, firm, association, company, corporation or their agents, servants or employees shall be fined a sum not less than one dollar (\$1.00) but shall not exceed two thousand dollars (\$2,000.00), and each day any violation or noncompliance continues shall constitute a separate and distinct offense."

### SECTION 3

All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Denton, Texas, are hereby repealed to the extent that said ordinances, resolutions, or parts thereof, are in conflict herewith.

### SECTION 4

If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

### SECTION 5

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished pursuant to the provisions contained in Section 14.202 of the Code of Ordinances of the City of Denton, Texas, as amended.

### SECTION 6

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.