AN ORDINANCE TO PROHIBIT OIL AND GAS DRILLING WHICH INVOLVE
HORIZONTAL DRILLING WITH FRACTURING WITHIN THE CORPORATE LIMITS OF
THE CITY OF CREEDEMOOR AND ITS EXTRATERRITORIAL JURISDICTION

I. FINDINGS; PURPOSE; AUTHORITY.

A. Article 27 of Chapter 113 (hereafter referred to as “the article”) of the General Statutes of the
State of North Carolina governs the drilling and exploration for gas and oil within the state.
The article, originally enacted in 1945, requires, among other things, the posting of a bond and
payment of a fee to the State Department of Environment and Natural Resources prior to
drilling. The article currently prohibits horizontal drilling and introduction via injection of
wastes to either the subsurface or groundwaters of the State by means of a well [as described in
NCGS §143-214.2(b)]. State rules currently in effect specifically prohibit use or operation of a
storage-related injection well, and the injection of fluids for oil and gas production.

Session Law 2011-276/House Bill 242, approved June 23, 2011, in NCGS §113-424, Section 4
states the North Carolina Department of Environment and Natural Resources and the Consumer
Protection Division of the Department of Justice have been charged with conducting a thorough
study of the issue of oil and gas exploration in the State and the use of directional and horizontal
drilling and hydraulic fracturing for that purpose. The study’s findings shall be reported to the
Environmental Review Commission no later than May 1, 2012. Among the findings sought by
the study are identification of potential environmental impacts, economic impacts, and social
impacts in terms of potential contamination of nearby wells and groundwater, potential for
emission of toxic air pollutants, impacts on wildlife, and the potential for seismic activity in the
area in which the drilling may occur. Quality of life impacts, including loss of recreational
opportunities, commercial and residential development potential and the long term
environmental consequences of closed drilling sites are to be studied, as well. Special emphasis
will be placed on determining the oil and gas resources present in the Triassic Basins of the
state.

B. It has been found and determined that the horizontal drilling for gas and oil with fracturing or
“fracking” methodology in oil and gas drilling operations are activities that adversely impact the
environment, interfere with the rights of citizens in the enjoyment of their property, and have the
potential for adversely affecting the health, safety, and well-being of persons living and working
in and around areas where such horizontal drilling with fracturing drilling operations exist.
Accordingly, it is found that the horizontal drilling of oil and gas wells with fracturing in oil and
gas well operations if performed within the corporate limits of the City of Creedmoor, or within
the extraterritorial planning jurisdiction of this municipality constitutes a public nuisance and a threat to public health.

It is also found and determined that the processes known as horizontal drilling, fracturing, or “fracking” have an increased level of potential harm which includes, but may not be limited to contamination of groundwater and hazards associated with the storage, treatment and transportation of the water or other liquids after being used in the process of horizontal drilling with fracturing. As the exact makeup of the byproducts of this process vary from drilling company to drilling company and are currently not known, the scope of the threat to human life and health is uncertain. These potential hazards associated with horizontal drilling with fracturing, or “fracking,” may adversely impact the citizens, drinking water supply, and property within the City of Creedmoor, even though the horizontal drilling with fracturing activity may take place outside of the corporate limits of the City or outside of its extraterritorial jurisdictional planning area.

C. By authority set forth in the General Statutes of the State of North Carolina, 160A-193, the City of Creedmoor shall have the authority to (1) summarily remove, (2) abate, (3) or remedy everything in the city limits, or within one mile thereof that is considered dangerous or prejudicial to the public health or public safety.

II. DEFINITIONS.

For the purpose of this Article, the following words shall have the meaning set forth as follows:

(a) “Drilling” means the sinking, drilling, boring, or digging of a shaft or hole in the Earth for any purpose in conjunction with the production of oil or gas.

(b) “Fracturing” or “Fracking” means any method used to increase the inherent productivity of an oil or gas well by injecting, shooting or pumping water, chemicals, or any other liquid into a well.

(c) “Gas” means all natural gas and all other fluid hydrocarbons not defined as oil therein.

(d) “Horizontal Drilling” means the drilling of an oil or natural gas well at an angle to the vertical, so that the well runs parallel to the formation containing the oil or gas. This methodology is currently prohibited under NCGS § 113.939.

(e) “Oil” means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoirs.

(f) “Person” means any natural person, corporation, firm, partnership, association or corporation that owns, manages, operates, controls, or possesses a well as principal, or as lessee or contractor, employee, or agent of such principal.

(g) “Well” means any shaft or hole drilled, sunk, bored, or dug into the Earth or into underground strata for the extraction or injection or placement of any oil, liquid or gas; or any shaft or hole sunk or used in conjunction with such extraction or injection using fracturing or fracturing methods. The term “well” does not include any shaft or hole sunk, drilled, bored or dug into the Earth for the sole purpose of testing for or pumping or
extracting therefrom potable, fresh, or usable water for household, domestic, industrial, agricultural, or public use.

III. DRILLING PROHIBITED; PENALTIES; ENFORCEMENT.

(a) Drilling a well for the purpose of extracting or storing oil or gas using horizontal drilling with fracturing or fracking methods within the corporate limits of the City of Creedmoor, or within one mile of the corporate limits of the City of Creedmoor is prohibited. For the purposes of calculating the one mile distance, it shall be measured from the well head.

(b) Any person who violates this section shall be fined up to the sum of five hundred (500) dollars. Each day that such person continues to violate this section after being advised by the City Manager or any law enforcement officer of the City of Creedmoor that the law has been violated shall be considered a new offense.

(c) The City Manager shall have the authority to direct the City Attorney or any such other legal counsel as may be employed, to institute a civil action seeking injunctive relief to prevent the violation of this ordinance.

IV. SEVERABILITY.

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect and for this purpose the provisions of this ordinance are hereby declared to be severable.

First Reading: Board of Commissioners Work Session, September 12, 2011
Ayes: Commissioner Minor
Commissioner Piper
Commissioner Seagroves
Nays: Commissioner Stallings
Commissioner Wilkerson

Second Reading: Board of Commissioners Regular Meeting, September 27, 2011
Ayes: 5
Nays: 0

Adopted: September 27, 2011

Darryl D. Moss, Mayor

ATTEST:

Korend L. Weichel, City Clerk