

ORDINANCE NO. 10-12A

AN ORDINANCE DECLARING A 90 DAY MORATORIUM ON THE ACCEPTANCE OR PROCESSING OF APPLICATIONS FOR PERMITS TO PERMIT MINERAL EXTRACTION THROUGH OIL AND GAS EXPLORATION OR OPERATIONS WITHIN THE CORPORATE LIMITS OF THE TOWN OF DISH; DIRECTING THE TOWN STAFF TO INITIATE A COMPREHENSIVE REVIEW OF THE TOWN'S ORDINANCE GOVERNING PROCEDURES FOR MINERAL EXTRACTION AND OIL AND GAS EXPLORATION AND EXTRACTION AND TO PROPOSE REVISIONS THERETO; PROVIDING FOR A METHOD OF REPEAL OF THIS MORATORIUM; PROVIDING A PROCEDURE FOR A VARIANCE FROM THIS MORATORIUM; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON PASSAGE.

WHEREAS, the Town of DISH, Texas is a type C general-law municipality located in Denton County, and created in accordance with the provisions of Chapter 8 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town Board of Commissioners of the Town of DISH is aware of an increased interest in oil and gas exploration and production in the North Central Texas area; and

WHEREAS, the Town Board of Commissioners has conducted such investigations as it deemed necessary to determine the state of regulations now applicable to oil and gas exploration and other forms of mineral extraction under the current ordinances and regulations of the Town of DISH; and

WHEREAS, the Town Board of Commissioners, after due and careful consideration, has determined that the current regulations may not be adequate to address environmental and land use compatibility issues created by oil and gas exploration and mineral extraction activities; and

WHEREAS, the Town Board of Commissioners believes that it is reasonable and necessary to update municipal ordinances and regulations to provide for a fair and equitable system of regulations relating to oil and gas exploration and mineral extraction so as to protect the property interest of mineral estate owners while protecting the rights, opportunities and property interests of surface estate owners; and

WHEREAS, it is important and necessary to preserve the status quo while a review and update of these regulations are being developed and implemented to ensure compatible land uses that do not negatively impact property values or neighborhood character; and

WHEREAS, the Town Board of Commissioners believes that the staff of the Town of DISH should undertake those studies or analyses necessary to prepare the appropriate recommendations for Board action; and

WHEREAS, the Town Board of Commissioners of the Town of DISH recognizes that there may be individuals or businesses who have a legitimate reason to seek a variance from the requirements of this moratorium based upon the unique needs of their project and who are able to demonstrate that the approval of their project will not defeat the purposes of the Town in adopting this moratorium; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF COMMISSIONERS OF THE TOWN OF DISH, TEXAS:

SECTION 1

A moratorium is hereby imposed on the receipt, processing and approval of applications for oil and gas well permits that would permit mineral extraction and/or oil and gas exploration and extraction within the corporate limits of the Town of DISH. The moratorium shall be in place for ninety (90) days following the adoption of this Ordinance and may thereafter be extended by the Town Board of Commissioners for good cause shown.

SECTION 2

The moratorium established herein shall apply to all gas wells and developments that do not have an existing oil and gas well permit for oil and gas exploration or mineral extraction under the terms of the Town's Oil and Gas Well Ordinance. Any application now in process is subject to this moratorium.

SECTION 3

The Town staff are hereby directed to initiate and complete those studies and analysis necessary to determine what, if any, regulatory changes to the ordinances of the Town of DISH are reasonable and necessary to permit mineral extraction and oil and gas exploration and extraction without negatively impacting the interest of surface estate owners within the Town. The Town Staff are directed to review all appropriate environmental, planning

materials and development regulations to suggest changes, if appropriate, that would protect the interest of both mineral estate owners and surface estate owners while ensuring the highest degree of concern for the preservation of the public health, safety, morals and general welfare. The staff shall complete their work and make their recommendations to the Town Board of Commissioners within ninety (90) days following the adoption of this Ordinance or; if they should determine that this time period is not feasible, report back to the Town Board of Commissioners with a proposed calendar in which they will complete their work. The Staff shall solicit such input as they deem necessary and appropriate from all affected and interested parties in preparing their recommendations.

SECTION 4

The purpose of this moratorium is to maintain the status quo within the corporate limits of the Town.

SECTION 5

Any property owner who believes that the imposition of this moratorium causes a unique and unreasonable hardship upon his or her property or business shall have the right to request a variance and shall submit a written request to the Town Board of Commissioners by transmitting same to the Town Secretary's office. The request must provide the following information:

- a. A description of the property to be covered by the variance.
- b. An explanation as to why the application of the moratorium is unreasonable as applied to the applicant's property.
- c. A description of any negative impacts created by the moratorium provision.

The Town Secretary's office shall place the request for a variance on the agenda of the Town Board of Commissioners for consideration at a public meeting. The applicant shall receive written notice of the date of the proposed hearing on the variance request. The Town staff shall not be required to provide written notice of the variance request to any other individual or entity. On the date that the item is set for hearing, the Town Board of Commissioners shall conduct a public hearing on the variance request giving any individual who desires to present information or evidence to the Town Board of Commissioners on the appropriateness or inappropriateness of the variance, the opportunity to appear before the Town

Board of Commissioners and present such information. At the conclusion of the hearing, the Town Board of Commissioners, by majority vote, may approve a variance to the provisions of this moratorium ordinance or may deny the request for variance.

SECTION 6

This ordinance shall be cumulative of all provisions of the ordinances of the Town of DISH, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such Ordinances are hereby repealed.

SECTION 7

That it is hereby declared to be the intention of the Town Board of Commissioners that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the Town Board of Commissioners without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 8

This moratorium shall remain in full force and effect upon its passage and for a period not to exceed 120 days, unless terminated prior to that time by action of the Town Board of Commissioners.

Passed and Approved this _____ day of _____, 2010.

Mayor

ATTEST:

Town Secretary

