

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

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

**AN ORDINANCE OF MARTIN COUNTY, FLORIDA, PROHIBITING HIGH PRESSURE WELL STIMULATION FOR THE PURPOSE OF EXPLORATION AND PRODUCTION OF OIL AND GAS AND PROHIBITING STORAGE AND DISPOSAL OF ASSOCIATED WASTES WITHIN UNINCORPORATED MARTIN COUNTY BY CREATING ARTICLE 15 OF THE MARTIN COUNTY CODE OF ORDINANCES, ENTITLED “OIL AND GAS RELATED HIGH PRESSURE WELL STIMULATION AND STORAGE AND DISPOSAL OF ASSOCIATED WASTES PROHIBITED”; PROVIDING FOR APPLICABILITY, SEVERABILITY, CODIFICATION, CONFLICTING PROVISIONS, FILING WITH THE DEPARTMENT OF STATE, AND AN EFFECTIVE DATE.**

**WHEREAS**, high pressure well stimulation, such as hydraulic fracturing and acid fracturing, is a technique used to increase recoverable volumes of hydrocarbons performed by pumping large quantities of fluids including water, acid, or other chemical additives and in the case of hydraulic fracking, sand or other proppant, under high pressure to open or enlarge fractures or flow paths within the rock formation to increase the flow of oil or gas from the formation into the wellbore; and

**WHEREAS**, high pressure well stimulation related waste is fluid produced from fracturing operations that is returned to the surface through the wellbore called “produced water” or “flow back” that may contain the injected acid or other chemicals and other natural materials including brines, metals, radionuclides and hydrocarbons; and

**WHEREAS**, high pressure well stimulation may involve the use of chemicals, some of which are determined by the Center for Disease Control and Prevention to be carcinogenic or which could otherwise pose a widespread and significant risk to public health, safety, and the environment; and

**WHEREAS**, the oil and gas industry is not required by federal or state law to publicly disclose all chemicals used in hydraulic fracturing fluid formulas making these fluids unknown and more difficult to treat; and

**WHEREAS**, the use of high pressure well stimulation fluids and their transport, storage, and disposal have the potential to expose ground water, surface water, and the adjacent land to the risk of contamination through leaks, spills, open pit storage, truck transport on roadways, and other activities during well development and operations; and

**WHEREAS**, high pressure well stimulation operations for oil and gas exploration and production can create detrimental environmental impacts including air pollution upon the natural resources and aquatic life within Martin County, and upon property owners who reside on, or own property above, the drilling site or who are adjacent to area are subjected to such drilling operations, and storage and disposal of the associated produced waste; and

**WHEREAS**, conventional wastewater treatment facilities are not equipped to treat produced water contaminants; and

**WHEREAS**, oil and gas operations could allow high pressure well stimulation fluid contaminants to seep into groundwater and/or discharge into public waterways, potentially harming drinking water supplies and aquatic life essential to sustaining recreational and commercial fisheries; and

**WHEREAS**, the use sale, acquisition, storage, handling, treatment, disposal and/or processing of oil or gas wastes within unincorporated Martin County, wherever situated, or any produced water or other waste resulting from high pressure well stimulation operation presents an unacceptable risk to the health, safety, welfare, and resources of unincorporated Martin County; and

**WHEREAS**, clean water, clean soil and clean air are fundamental to the health of Martin County's environment, economy and its citizens; and

**WHEREAS**, the public utilities in Martin County rely on water from the surficial and Upper Floridan Aquifers for potable water supplies; and

**WHEREAS**, the Martin County Board of County Commissioners seeks to protect the air, soil, groundwater and surface water of Martin County from potential contamination by carcinogenic chemicals; and

**WHEREAS**, the Board of County Commissioners finds and declares that the treatment of wastewater, wastewater solids, sludge, drill cuttings or other byproducts from high pressure well stimulation for the purpose of oil and gas exploration and production could pose significant public health, safety and welfare risks to the aquatic life and citizens of Martin County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA THAT:

**PART 1: CREATION OF ARTICLE 15, GENERAL ORDINANCES, MARTIN COUNTY CODE,**

Article 15, of the General Ordinances of Martin County, Florida is hereby created to read as follows:

**ARTICLE 15. OIL AND GAS RELATED HIGH PRESSURE WELL STIMULATION AND STORAGE AND DISPOSAL OF ASSOCIATED WASTES PROHIBITED.**

Sec.67.441. - Purpose and intent.

It is the purpose and intent of the Martin County Board of County Commissioners to prohibit all oil and gas high pressure well stimulation activities and the storage and disposal of related wastes within unincorporated Martin County.

Sec.67.442. - Definitions.

The following words, terms, and phrases shall apply in the application, interpretation and enforcement of this division:

*Exploration* shall mean the search for rock formations associated with oil or natural gas deposits, and involves geophysical prospecting and/or exploratory drilling.

*Production* shall mean the phase that occurs after successful exploration and during which oil and gas are extracted from such rock formations. *Hydrocarbon* shall mean a naturally occurring organic compound comprising hydrogen and carbon. Hydrocarbons can be as simple as methane [CH<sub>4</sub>], but many are highly complex molecules, and can occur as gases, liquids or solids. The molecules can have the shape of chains, branching chains, rings or other structures. Petroleum is a complex mixture of hydrocarbons. The most common hydrocarbons are natural gas, oil and coal.

*Hydraulic fracturing* shall mean the drilling technique of expanding existing fractures or creating new fractures in rock formation by injecting fracturing fluid commonly consisting of water, sand and chemical additives, under pressure for purposes of stimulating the flow of natural gas or oil, increasing recoverable volumes.

*Acid fracturing* shall mean pumping fluids containing a reactive acid into a well above the formation fracturing pressure that fractures the rock for the purpose of enhancing existing or creating new paths for oil and gas to flow into the wellbore.

*High Pressure Well Stimulation* shall mean all stages of a well intervention performed by injecting fluids into a rock formation at high pressure that exceeds the fracture gradient

of the rock formation in order to propagate fractures to increase the flow of hydrocarbons from the formation into the wellbore. The term does not include routine well stimulation, conventional workover procedures or well cleaning.

High Pressure Well Stimulation Related Waste or Wastewater shall mean fluid known as “flow back” or “produced water” that is returned to the surface through the wellbore as a result of fracking operations that may contain fracturing fluid chemicals and naturally occurring materials such as brines, metals, radionuclides, and hydrocarbons.

Horizontal Drilling shall mean the drilling of an oil or gas well at an angle to the vertical, so that the well runs parallel within the producing formation.

Sec.67.443. - Prohibited Activities.

(a) No person or entity may engage in hydraulic fracturing or acid fracturing by high pressure well stimulation for the purpose of oil and gas exploration or production within unincorporated Martin County.

(b) Horizontal drilling related to hydraulic fracturing or acid fracturing by high pressure well stimulation which causes a well to enter into unincorporated Martin County from outside its boundaries for the purpose of oil or gas exploration or production.

(c) No waste, wastewater solids, sludge, drill cuttings or other byproducts resulting from hydraulic fracturing or acid fracturing by high pressure well stimulation for the purposes of oil and gas exploration or production may be treated, discharged, disposed of or otherwise released into the environment, or stored within unincorporated Martin County.

Sec.67.444. – Enforcement and penalties.

A. The County Attorney is authorized to pursue temporary or permanent injunctive relief or any other legal or equitable remedy authorized by law in courts of competent jurisdiction to cure, remove or end any activity which violates this Article.

B. This Article may be enforced in accordance with F.S. 162 and Chapter 1, Article 4 of the Martin County Code of Ordinances.

C. In the event the County prevails in an action pursuant to Section 67.445. A. or B. the County shall be entitled to an award of costs and attorney’s fees.

Sec. 67.445. – Liability for violation.

Whenever a violation of this chapter occurs or exists, or has occurred or existed, any person, individually or otherwise, who has a legal, beneficial or equitable interest in

the facility or instrumentality causing or contributing to the violation, or who has a legal, beneficial or equitable interest in real property upon which such violation occurs or exists, or has occurred or existed, shall be jointly and severally liable for such violation. This provision shall be construed to impose joint and several liability upon all persons, individually or otherwise, who, although such persons may no longer have any such legal, beneficial or equitable interest in such facility or instrumentality or real property, did have such an interest at any time during which such violation existed or occurred or continued to exist or to occur.

## **PART 2: APPLICABILITY OF ORDINANCE**

This Ordinance shall be applicable throughout unincorporated Martin County.

## **PART 3: SEVERABILITY**

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstances.

## **PART 4: CODIFICATION**

Provisions of the ordinance shall be incorporated into the Martin County Code of General Ordinances. The word “ordinance” may be changed to “article” “section” or other word, and the sections of the ordinance may be renumbered or re-lettered.

## **PART 5: CONFLICTING PROVISIONS.**

Special actions of the Florida Legislature applicable only to unincorporated Martin County, Martin County ordinances, County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such a conflict.

## **PART 6: FILING WITH THE DEPARTMENT OF STATE**

The clerk shall be and is hereby directed forthwith to scan this ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission.

## **PART 7: EFFECTIVE DATE**

This ordinance shall take effect upon filing with the Department of State.

**PASSED AND DULY ADOPTED THIS \_\_\_\_ DAY OF JANUARY, 2017.**

**BOARD OF COUNTY  
COMMISSIONERS OF MARTIN**

**COUNTY, FLORIDA**

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DOUG SMITH, CHAIR

**ATTEST:**

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CAROLYN TIMMANN, COMPTROLLER  
AND CLERK OF THE CIRCUIT COURT

APPROVED AS TO FORM AND  
CORRECTNESS:

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SARAH W. WOODS  
ACTING COUNTY ATTORNEY

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

**RESOLUTION NUMBER 15-\_\_\_\_\_**

**A RESOLUTION SUPPORTING A STATEWIDE BAN ON HORIZONTAL  
OIL DRILLING AND HYDRAULIC FRACTURING, ACID FRACTURING,  
AND WELL STIMULATION PERFORMED FOR THE PURPOSES OF  
EXPLORATION OR PRODUCTION OF OIL OR NATURAL GAS IN THE  
STATE OF FLORIDA**

WHEREAS, the Martin County Board of County Commissioners is charged generally with safeguarding the health, safety and welfare of the residents of the County; and

WHEREAS, the Martin County Board of County Commissioners is dedicated to protecting and improving our most precious natural resources; and

WHEREAS, hydraulic fracturing is the process of pumping a fluid into or under the surface of the ground in order to create fractures in existing rock for the purpose of producing or recovering oil or gas; and

WHEREAS, hydraulic fracturing, also known as well stimulation, may involve the use of hundreds of chemicals, some of which are known to be carcinogenic or could otherwise be harmful to human beings; and

WHEREAS, exposure to the chemicals used in well stimulation treatments may pose a widespread and significant risk to public health and safety and the environment; and

WHEREAS, according to the Florida Department of Environmental Protection, the state's surface and ground water resources are intimately connected and support drinking water supplies, agriculture, industry, wildlife habitat and a thriving recreation based economy; and

WHEREAS, there have been more than a 1,000 documented cases of water contamination near fracking sites; and

WHEREAS, the pollution of water caused by well stimulation and fracking threatens the long term economic well-being of communities, as businesses and consumers depend on clean drinking water; and

WHEREAS, the oil and gas industry is not required by federal law to publicly disclose chemical formulas of well stimulation and fracturing fluids so that this information is publicly unavailable for health and safety purposes; and

WHEREAS, hydraulic fracturing may involve the use of substantial amount of freshwater at a time when many Florida local governments are struggling with the impacts that water scarcity may have in the state in the near future; and

WHEREAS, hydraulic fracturing poses potential risks for contaminating the Floridan Aquifer, the source of drinking water for nearly 10 million Floridians; and

WHEREAS, the wise stewardship of our natural resources involves protection of Florida's water supplies and water resources for generations to come; and

WHEREAS, protection of Florida's water supplies and resources is better accomplished by prevention of contamination and environmental degradation, rather than attempting to clean up contamination and restoring degraded environments after the fact;

WHEREAS, the prohibition of such practices will help protect the public health, safety and welfare of the state.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:**

1. The Martin County Board of County Commissioners does hereby support a statewide ban on the use of horizontal oil drilling, hydraulic fracturing, acid fracturing and well stimulation treatments performed for the purposes of exploration or production of oil or natural gas in the State of Florida due to the potential harmful impacts on the environment and natural resources of Martin County.

2. The County Administrator is directed to send to the Governor of the State of Florida and each member of the County's legislative delegation a certified copy of this resolution to show the Board's support for a statewide ban on horizontal oil drilling, hydraulic fracturing, acid fracturing and well stimulation performed for the purposes of exploration and production of oil and natural gas in the State of Florida.

**DULY PASSED AND ADOPTED THIS \_\_\_\_ DAY OF SEPTEMBER, 2015.**

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

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CAROLYN TIMMANN, CLERK OF  
CIRCUIT COURT & COMPTROLLER

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ED FIELDING, CHAIRMAN

APPROVED AS TO FORM & LEGAL SUFFICIENCY:

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MICHAEL D. DURHAM  
COUNTY ATTORNEY