

ORDINANCE # 4, 2011

AN ORDINANCE ADDING CHAPTER 149 ENTITLED “GAS DRILLING” OF THE CITY OF ONEONTA.

BE IT ORDAINED by the Common Council of the City of Oneonta as follows:

Section 1. That Chapter 149 entitled “Gas Drilling” of the Code of the City of Oneonta is added as follows:

CHAPTER 149: GAS DRILLING

149.01 FINDINGS AND INTENT

The Common Council of City of Oneonta finds that the commercial extraction of natural gas in the urban environment of City of Oneonta poses a significant threat to the health, safety, and welfare of residents and neighborhoods within the City. Moreover, widespread environmental and human health impacts have resulted from commercial gas extraction in other areas. Regulating the activity of commercial gas extraction automatically means allowing commercial gas extraction to occur within the City, thus allowing the deposition of toxins into the air, soil, water, environment, and the bodies of residents within our City.

Meaningful regulatory limitations and prohibitions concerning Marcellus Shale natural gas extraction, along with zoning and land use provisions, are barred because they conflict with certain legal powers claimed by resource extraction corporations. The Common Council recognizes that environmental and economic sustainability cannot be achieved if the rights of municipal majorities are routinely overridden by corporate minorities claiming certain legal powers.

The Common Council believes that the protection of residents, neighborhoods, and the natural environment constitutes the highest and best use of the police powers of this municipality.

The Common Council also believes that local legislation that embodies the interests of the community is mandated by the doctrine of the consent of the governed, and the right to local, community self-government. Thus, the Common Council hereby adopts this ordinance, which bans commercial extraction of Marcellus Shale natural gas within the City of Oneonta.

149.02 DEFINITIONS

(a) “Natural Gas” shall mean any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature or pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or natural gas.

(b) “Extraction” shall mean the digging or drilling of a well for the purposes of exploring for, developing or producing natural gas or other hydrocarbons.

(c) “Hydraulic fracturing” or “fracking” shall mean the process of pumping a fluid into a well at very high pressure to create cracks in the reservoir rock, sand or other material may be used to prop open the gaps created by fracking.

(d)“Corporations,” for purposes of this ordinance, shall include any corporation, limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or under the laws of any country, and any other business entity that possesses State-conferred limited liability attributes for its owners, directors, officers, and/or managers.

149.3 STATEMENTS OF RIGHTS OF THE CITY OF ONEONTA RESIDENTS TO THE NATURAL ENVIRONMENT

(a) Right to Water. All residents, natural communities and ecosystems in City of Oneonta possess a fundamental and inalienable right to sustainable access, use, consume, and preserve water drawn from natural water sources that provide water necessary to sustain life within the City.

(b) Rights of Natural Communities. Natural communities and ecosystems, including, but not limited to, wetlands, streams, rivers, aquifers, and other water systems, possess the fundamental right to exist and flourish within the City of Oneonta. Residents of the City shall possess legal standing to enforce those rights on behalf of those natural communities and ecosystems.

(c) Right to Self-Government. All residents of City of Oneonta possess the fundamental right to a form of governance which recognizes that all power is inherent in the people, that all free governments are founded on the people’s authority and consent.

149.4 STATEMENTS OF PROHIBITIONS

It shall be unlawful for any person or corporation to engage in the extraction of natural gas within the City of Oneonta, with the exception of gas wells installed and operating at the time of enactment of this Ordinance.

In addition Oneonta’s watershed should be protected in the same manner to that which has been accorded to the watersheds of New York City and Syracuse which require a full SEQR review for each and every gas well proposed to be drilled in the watershed.

149.5 ENFORCEMENT

(a) Any person, corporation, or other entity that violates any prohibition of this Ordinance shall be guilty of a violation and, shall be sentenced to pay the maximum fine allowable under this ordinance. A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Ordinance found to be violated.

(b) The City of Oneonta may enforce this Ordinance through an action in Oneonta City Court, New York State Supreme Court, or in any other court having jurisdiction thereof. In such an action, the City of Oneonta shall be entitled to recover all costs of litigation, including, without limitation, expert and reasonable attorney’s fees.

(c) Any City resident shall have the authority to enforce this Ordinance through an action in the New York State Supreme Court, or in any other court having jurisdiction thereof. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney’s fees.

149.7 SEVERABILITY

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. All inconsistent provisions of prior Ordinances adopted by the City of Oneonta are hereby repealed, but only to the extent necessary to remedy the inconsistency.

Section 2. This Ordinance shall take effect immediately.