

**ORDINANCE NO. 2017-28**

**An Ordinance of The Board of County Commissioners of Osceola County, Florida, Amending the Osceola County Land Development Code to Prohibit any Oil and Gas Exploration That Uses Well Stimulation, and to Prohibit Storage and/or Disposal of Associated Waste Products Within the Boundaries of Osceola County, Florida; Providing Certain Findings; Creating Section 4.12.3, Entitled "Mining," Under Article 4.12 of the Osceola County Land Development Code; Providing for Severability; Providing for Inclusion in the Code; Providing for Resolution of Conflicting Provisions; and Providing for an Effective Date.**

**WHEREAS**, Osceola County (hereinafter the "County") is a charter county as that term is used in Article VIII, Section 1(f), Florida Constitution; and

**WHEREAS**, the County is given its home rule powers by the Florida Constitution, Section 125.01, Florida Statutes, and other provisions of Florida Law; and

**WHEREAS**, high pressure well stimulation practices including hydraulic fracturing and acid fracturing (commonly called fracking), are methods of extracting underground oil and natural gas resources; and

**WHEREAS**, fracking typically involves the pumping or injection of high volumes of water mixed with sand and chemicals into the ground at high pressure to fracture rock under the surface of the ground in the vicinity of an extraction well; and

**WHEREAS**, fracking operations require the transport and storage of fluids containing toxic chemicals of unknown concentration, which concentrations have not been disclosed and are not expected to be disclosed because they are trade secrets; and

**WHEREAS**, fracking uses millions of gallons of potable water and generates wastewater that must be stored, managed, and either disposed of through injection wells onsite or transported offsite for proper disposal, increasing the risk to surrounding uses; and

**WHEREAS**, most of Florida's water supply comes from highly permeable limestone formations that are vulnerable to contamination from fracking and any other activity that introduces potentially harmful substances into subsurface aquifers; and

**WHEREAS**, leaks and spills of such chemicals, as well as releases of toxic and dangerous gases, particulates, and other substances, have been reported in several states at sites engaged in fracking operations; and

**WHEREAS**, aggravated earthquake activity has been reported in several locations near sites engaged in fracking operations; and

**WHEREAS**, specialized emergency equipment and training is needed to respond locally to emergencies involving oil and gas wells engaged in fracking; and

**WHEREAS**, there is limited local emergency response training and equipment available to respond to an emergency situation involving fracking, should one occur within the County; and,

**WHEREAS**, the New York State Department of Health, in an extensive study of high volume hydraulic fracturing released in December 2014, found there were significant uncertainties about the kinds of adverse health outcomes that may be associated with hydraulic fracturing, the likelihood of the occurrence of adverse health outcomes, and the effectiveness of some of the mitigation measures in reducing or preventing environmental impacts that could affect public health; and

**WHEREAS**, in December 2013, high pressure acid fracturing was used by a Texas-based oil drilling company in Collier County, prompting the Florida Department of Environmental Protection (DEP) to issue a cease and desist order, revoke the company's drilling permits, and issue a \$25,000 fine; and

**WHEREAS**, DEP has installed a series of groundwater wells in the vicinity of the Collier County fracking well to monitor for contamination; and

**WHEREAS**, fracking is exempt from important regulations meant to protect public health and the environment, specifically sections of the Clean Water Act, Clean Air Act, Safe Drinking Water Act, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and the National Environmental Protection Act; and

**WHEREAS**, Florida's oil and gas regulations found in Chapter 377, Florida Statutes, and Florida Administrative Code Rules 626-25 through 30 make no reference to hydraulic fracturing or fracking; and

**WHEREAS**, the County has consistently maintained policies and programs for the protection of public health and natural resources including drinking water supplies, conservation lands, and other local and state resources; and

**WHEREAS**, the County seeks to protect the County's water resources from potential contamination by carcinogenic chemicals; and

**WHEREAS**, the County has determined that without compelling scientific evidence of the safety of fracking in the State of Florida, it is in the best interest of the County to prohibit these activities; and

**WHEREAS**, to protect the health, safety, and welfare of the citizens of the County, the Board desires to amend the Osceola County Land Development Code to prohibit well stimulation, fracking, and storage and disposal of associated waste products in the County; and

**WHEREAS**, the Board has complied with all requirements imposed by Florida law for

enactment of this ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA:**

**SECTION 1. INTENT.** The foregoing "Whereas" clauses are hereby ratified and affirmed as being true and correct and are incorporated herein by reference.

**SECTION 2. CREATION.** This ordinance creates Section 4.12.3, "Mining," of the Osceola County Land Development Code, to read as follows:

**4.12.3 MINING**

**A. PURPOSE**

The purpose of this Section is to protect the public health, safety, and welfare through establishment of reasonable standards for review and regulation of the location and operation of mining activities. The County shall fairly and equitably allow mining operations while at the same time protecting the needs and interests of the County.

**B. DEFINITIONS**

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

1. *Hydraulic fracturing* means the process by which fractures in the earth's subsurface are widened by injection of water, chemicals, or both, under high pressure used in the extraction of oil and gas.
2. *Matrix acidizing* means the injection of any acid into a well to break up impediments without fracturing the well.
3. *Well stimulation* means all stages of a well intervention performed by injecting water, chemicals, or both into a rock formation as a means of oil and gas exploration:
  - a. At pressure that is at or exceeds the fracture gradient of the rock formation where the purpose or effect is to fracture the formation to increase production or recovery from an oil or gas well, such as hydraulic fracturing; or
  - b. At pressure below the fracture gradient of the rock formation where the purpose or effect is to dissolve the formation to increase production or recovery from an oil or gas well, such as matrix acidizing.

The term does not include techniques used for routine well cleanout work or maintenance that do not affect the integrity of the well or formation.

4. *Well stimulation waste product* means water, hydraulic fracturing fluid, acid, natural gas, steam, air, carbon dioxide, nitrogen, and other chemical substances (including all solutions and mixtures of the same in any combination and concentration) that have been used for well stimulation.

**C. WELL STIMULATION**

**1. Oil and gas exploration that uses Well Stimulation prohibited.**

- a. No person or entity may engage in any oil and gas exploration or production that uses well stimulation, including but not limited to hydraulic fracturing and matrix acidizing, within the boundaries of Osceola County.
- b. No person or entity may engage in oil or gas exploration or production using well stimulation techniques, including but not limited to hydraulic fracturing and matrix acidizing, that originates outside the boundaries of Osceola County but in any way enters onto, into, or under the ground within the boundaries of Osceola County.

**2. Storage and/or disposal of Well Stimulation Waste Products prohibited.**

- a. No person or entity may store and/or dispose of Well Stimulation Waste Products within the boundaries of Osceola County.

**SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is held or declared to be unconstitutional, inoperative or void, such holding of invalidity shall not affect the remaining portions of this Ordinance and shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional, invalid, or inoperative parts therein, and the remainder of this Ordinance, after the exclusion of such part or parts, shall be deemed to be held valid as if this Ordinance had been adopted without such unconstitutional, invalid, or inoperative part herein and if this Ordinance or any provision thereof, shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holding shall not affect the application thereof to any other person, property, or circumstances.

**SECTION 4. INCLUSION IN CODE.** It is intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Land Development Code of Osceola County, Florida, and that sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 5. CONFLICTING PROVISIONS.** In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state, or county law, rule, code or regulation, the more restrictive shall apply.

**SECTION 6. EFFECTIVE DATE.** A certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten days after enactment.



**BOARD OF COUNTY COMMISSIONERS  
OF OSCEOLA COUNTY, FLORIDA**

By: \_\_\_\_\_  
Chair/Vice Chair

**ATTEST:  
OSCEOLA COUNTY CLERK OF THE BOARD**

By: Diana M. Wallis  
Clerk/ Deputy Clerk of the Board

As authorized for execution at the Board of  
County Commissioners meeting of:

June 19, 2017  
Ordinance # 2017-28