

ORDINANCE NO. 2016-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MADISON COUNTY, FLORIDA, AMENDING THE MADISON COUNTY LAND DEVELOPMENT CODE TO PROHIBIT HIGH INTENSITY PETROLEUM OPERATIONS AND THE STORAGE AND/OR DISPOSAL OF HIGH INTENSITY PETROLEUM OPERATIONS WASTE; PROVIDING CERTAIN FINDINGS; AMENDING THE DEFINITIONS SECTION OF THE MADISON COUNTY LAND DEVELOPMENT CODE TO DEFINE CERTAIN TERMS WITH REGARD THERETO; CREATING SECTION 6.5 OF THE MADISON COUNTY LAND DEVELOPMENT CODE ENTITLED “REGULATIONS GOVERNING HIGH INTENSITY PETROLEUM OPERATIONS AND HIGH INTENSITY PETROLEUM OPERATIONS WASTE PRODUCTS”; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Madison County (hereinafter the “County”) is a non-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, the Board of County Commissioners of the County, (hereinafter the “Board”) is the governing body of the County; and,

WHEREAS, the Board takes great pride in supporting the highest quality of life among County residents; and,

WHEREAS, the topographic, geological, and hydrological properties of the County are extremely unique and sensitive, particularly with regard to the many karst features and wetlands found throughout the County; and,

WHEREAS, high intensity petroleum operations often involve the storage, use, and disposal of chemicals, some of which are listed as Immediately Dangerous to Life or Health by the Center for Disease Control, others of which the chemical composition is unknown due to their classification as trade secrets; 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 high intensity petroleum operations; and,

WHEREAS, aggravated earthquake activity have been reported in several locations near

sited engaged in high intensity petroleum operations; and,

WHEREAS, specialized emergency equipment and training is needed to respond locally to emergencies involving oil and gas wells engaged in high intensity petroleum operations; and,

WHEREAS, there is limited local emergency response training and equipment available to respond to an emergency situation involving a high intensity petroleum operation, should one occur within the County; and,

WHEREAS, in the absence comprehensive Florida and County-specific peer reviewed scientific studies demonstrating the safety and efficacy of high intensity petroleum operations, including hydraulic fracturing and acidization, the Board opposes the use of such high intensity petroleum operations within the County given the potentially irreversible threat they pose to the County's economy and environment, as well as the health, safety, and welfare of the citizens of the County; and,

WHEREAS, to protect the health, safety, and welfare of the citizens of the County, the Board desires to amend the Madison County Land Development Code to prohibit the use of high intensity petroleum operations and the storage and disposal of high intensity petroleum operations waste products in the County; and,

WHEREAS, the Board has complied with all requirements imposed by Florida law for the enactment of this ordinance.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MADISON COUNTY:

1. The above recitals are hereby incorporated into this ordinance as if restated herein and constitute the legislative findings and intent of the Board.
2. Section 2.4 of the Madison County Land Development Code, entitled "Definition of Terms", is hereby amended to add the following terms and definitions:
 - 2.1 *Acid Well Stimulation Treatment* means a Well Stimulation Treatment that uses, in whole or in part, the application of one or more acids to the well or underground geologic formation with the intent of enhancing the production of oil or gas from the well. The Acid Well Stimulation Treatment may be at any applied pressure and may be used in combination with Hydraulic Fracturing Treatments or other Well Stimulation Treatments. Acid Well Stimulation Treatments include, but are not limited to, acid matrix stimulation treatments and acid fracturing treatments.
 - 2.2 *High Intensity Petroleum Operation* means any or all of the following, as defined

in this section: (1) Well Stimulation Treatments and (2) Secondary and Enhanced Recovery Operation.

- 2.3 *High Intensity Petroleum Operation 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 concentration) which have been used for a High Intensity Petroleum Operation or some part thereof.
- 2.4 *Hydraulic Fracturing Treatment* means a Well Stimulation Treatment that, in whole or in part, includes the pressurized injection of hydraulic fracturing fluid or fluids into an underground geologic formation in order to fracture or with the intent to fracture the formation, thereby causing or enhancing the production of oil or gas from a well.
- 2.5 *Secondary and Enhanced Recovery Operation* means any operation where the flow of hydrocarbons in an oil or gas well are aided or induced with the use of injected substances including but are not limited to, the introduction or injection of water and natural gas, steam, air, carbon dioxide, nitrogen, chemical substances and any other substance of combination thereof. Examples include waterflood injection, steamflood injection, and cyclic steam injection.
- 2.6 *Well Stimulation Treatment* means any treatment of an oil or gas well designed to enhance hydrocarbon production or recovery by fracturing, heating, dissolving, or otherwise increasing the permeability of the formation. Well Stimulation Treatments include, but are not limited to, Hydraulic Fracturing Treatments and Acid Well Stimulation Treatments.

(The above terms shall be placed in Section 2.4 alphabetically.)

- 3. Section 6.5, of the Madison County Land Development Code, entitled “Regulations Governing High Intensity Petroleum Operations and High Intensity Petroleum Operations Waste Products” is hereby created to read as follows:

Section 6.5 Regulations Governing High Intensity Petroleum Operations and High Intensity Petroleum Operations Waste Products.

- A. Notwithstanding anything else in this Land Development Code to the contrary and regardless of whether any special exception, site plan, subdivision plan, or other development approval is requested from the County or any other regulatory agency or body, High Intensity Petroleum Operations shall not be an allowable use in any land use district and shall be otherwise prohibited over, under, on, within, and through all of the land

governed by this Land Development Code. This prohibition shall apply regardless of whether the surface access point for any such High Intensity Petroleum Operation is located on land governed by this Land Development Code.

B. Notwithstanding anything else in this Land Development Code to the contrary and regardless of whether any special exception, site plan, subdivision plan, or other development approval is requested from the County or any other regulatory agency or body, the storage and/or disposal of High Intensity Petroleum Operation Waste Products shall not be an allowable use in any land use district and shall be otherwise prohibited over, under, on, within, and through all of the land governed by this Land Development Code. This prohibition shall apply regardless of whether the surface access point for any such storage or disposal operations is located on land governed by this Land Development Code.

4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.
5. It is declared to be the intent of the Board that if any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holdings shall not effect the validity of the remaining portions hereof.
6. This ordinance shall become effective as provided by law.

ORDAINED upon due motion, second, after discussion, by majority vote this ____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
MADISON COUNTY, FLORIDA

BY: _____
Rick Davis
Chair

ATTEST: _____
Tim Sanders,
Clerk