

ORDINANCE NO. 1880

INTRODUCED BY: BENSON, BULLOCK, CARSON, DOUGLAS, ELLIOTT, MCELDFOWNEY, MORENO, TETER

AN ORDINANCE CREATING AND DECLARING A SIX-MONTH MORATORIUM ON ANY LAND USE, INCLUDING SURFACE OR SUBSURFACE USE, FOR THE CONDUCT OF ANY OIL AND GAS OPERATIONS THAT INCLUDE HYDRAULIC FRACTURING OR DRILLING ACTIVITIES WITHIN THE CITY LIMITS OF THE CITY OF COMMERCE CITY.

WHEREAS, the City of Commerce City (“the City”) recognizes the importance of the oil and gas industry and has taken steps to minimize its impacts on the health, safety, and welfare of the City and its citizens through zoning and land use regulations pertaining to mining and the extraction of natural products by the mining industry; and

WHEREAS, there has been considerable interest in potential oil and gas resources underlying portions of the City; and

WHEREAS, there exists sizeable deposits of hazardous materials on the surface or in the underground area of the Rocky Mountain Arsenal National Wildlife Refuge located adjacent to the City; and

WHEREAS, the exploration for and extraction of liquid and gaseous resources presents health, safety, and welfare issues and presents even greater issues for areas of the City that are in proximity to the Rocky Mountain Arsenal National Wildlife Refuge because of the sizeable deposits of hazardous materials on or underlying portions of the Rocky Mountain Arsenal National Wildlife Refuge; and

WHEREAS, the land use regulations of the City fail to adequately address the unique aspects of oil and gas operations that include hydraulic fracturing or drilling activities that may impact the public health, safety, and welfare differently than other mineral mining activities especially in those areas of the City that may be impacted by such operations as a result of the existence of hazardous materials located on or in the subsurface areas of the Rocky Mountain Arsenal National Wildlife Refuge; and

WHEREAS, oil and gas operations that include hydraulic fracturing or drilling activities may negatively impact the use and integrity of surface and underground water supplies and water infrastructure, air quality, roads and transportation infrastructure, wastewater infrastructure, wildlife, vegetation, cultural and historic resources, recreation opportunities, aesthetic values, and other resources and the public health, safety, and welfare of the public including, but not limited to, the portions of the City that are unique as a result of their location in or underground connection to the area of the Rocky Mountain Arsenal National Wildlife Refuge and the undetermined risks related to the surface and subsurface, water and other resources as a result of known and unknown hazardous materials that may be present in certain portions of the Rocky Mountain Arsenal National Wildlife Refuge or on and under other property within the City limits; and

WHEREAS, there have been significant oil and gas issues that have occurred in relation to oil and gas operations that include hydraulic fracturing and drilling activities; and

WHEREAS, a more comprehensive study of the impacts of oil and gas operations that include hydraulic fracturing and related drilling activities is necessary to determine appropriate zoning and land use regulations pertaining to such activity and uses in the City in order to protect the public health, safety, and welfare and to mitigate the impacts of oil and gas operations that include hydraulic fracturing and related drilling activities in the City; and

WHEREAS, it is the City's belief that oil and gas operations that include hydraulic fracturing and related drilling activities may commence or increase from current levels on property within the City limits within the next six (6) months; and

WHEREAS, if oil and gas operations that include hydraulic fracturing or any other oil and gas related drilling activities commence within the City limits prior to the City having adequate land use regulations in place to address the risks posed by such activities, the City believes irreparable harm may be done to the public health, safety, and welfare; and

WHEREAS, in light of a foreseeable imminent request to begin oil and gas operations that include hydraulic fracturing and related drilling activities within the City limits and because of the lack of specific study and regulations regarding the same, this City Council finds and determines that a six (6) month moratorium on City land use, including surface and subsurface use, for oil and gas operations that include hydraulic fracturing or related drilling activities within the City limits, is necessary and reasonable for the purpose of studying the risks and impacts of these types of uses and determining whether additional land use and zoning regulations are necessary to protect and preserve the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

Section 1. The conduct of oil and gas operations that include hydraulic fracturing or related drilling activities within the City limits is imminent and the City does not have comprehensive zoning or land use regulations in place that specifically or fully assess the risk or address this type of land use in order to mitigate impacts of this type of activity to protect and preserve the public health, safety, and welfare.

Section 2. This City Council hereby imposes a six (6) month moratorium on any land use, including surface and subsurface use, for the commencement or conduct of any oil and gas operations that include hydraulic fracturing or related drilling activities within the City limits within six (6) months after the passage of this ordinance on second reading.

Section 3. This City Council finds that this six (6) month moratorium period is reasonable and necessary to permit the City to assess the risks and study the impacts of the uses described in this ordinance and to determine whether additional land use and zoning regulations are necessary to protect and preserve the public health, safety, and welfare.

Section 4. If any clause, sentence, paragraph or part of this ordinance or application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section 5. This six (6) month period may be extended by an amendment to this ordinance if this City Council deems such extension necessary to accomplish the purposes set forth in this ordinance.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 19TH DAY OF DECEMBER, 2011.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS _____ DAY OF _____, 2012.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk