

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, AMENDING CHAPTER 34, ZONING, ARTICLE VII, SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 15, EXCAVATION ACTIVITIES, OF VILLAGE OF ESTERO LAND DEVELOPMENT CODE TO LIMIT CERTAIN EXCAVATION ACTIVITIES RELATING TO WELL STIMULATION INCLUDING ACID STIMULATION AND HYDRAULIC OR ACID FRACTURING; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 166, Florida Statutes, the Village Council has all powers of self-government not inconsistent with general or special law, including the power and authority to adopt ordinances providing for the public health, safety and welfare of the residents of the Village of Estero; and

45 **WHEREAS**, the Council has determined that the use of well stimulation as a means of
46 oil or gas extraction is incompatible with the existing and planned uses within the Village, and
47 public health, safety and welfare of the community and the Council has determined that this
48 ordinance is consistent with the Estero Comprehensive Plan.
49

50 **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,
51 Florida:
52

53 **Section 1.** The forgoing recitals are true and correct and are incorporated herein by
54 this reference.
55

56 **Section 2.** Chapter 34 Zoning, Article VII Supplementary District Regulations,
57 Division 15 Excavation Activities, is hereby amended as follows: Sec. 34-1651. – General
58 requirements for all excavation activities.

- 59 (a) Certificate to dig. A certificate to dig must be obtained prior to receiving approval to
60 excavate properties located within Level 1 or Level 2 zones of archaeological
61 sensitivity pursuant to chapter 22.
- 62 (b) Mining. Mining (def) activities may be permitted in accordance with chapter 12.
- 63 (c) Driving or sinking of wells for purpose of oil or gas exploration or extraction.
- 64 (1) No oil or gas exploration wells or test wells may be commenced prior to
65 obtaining a special exception for gas and oil exploration in accordance with the
66 procedures set forth in article II of this chapter.
- 67 (2) No oil or gas exploration wells may be used for or converted to production wells
68 prior to obtaining a special exception for gas and oil extraction in accordance
69 with the procedures set forth in article II of this chapter.
- 70 (3) No person or entity may engage in any oil and gas exploration or production
71 that utilizes well stimulation within and below the corporate boundaries of the
72 Village of Estero or, consistent with Florida Statutes §377.24(6), within the
73 tidal waters of the state abutting or immediately adjacent to the corporate limits
74 of the municipality, or within three miles of the Village's corporate limits
75 extending from the line of the mean high tide. As used in this section, the term
76 "well stimulation" shall mean a well intervention, exploration, operation, or
77 maintenance procedure performed by injecting fluid into a rock formation in
78 order to increase production at an oil or gas well by improving the flow of
79 hydrocarbons from the formation into the wellbore. Well stimulation does not
80 include routine well cleaning that does not affect the integrity of the well or the
81 formation. Furthermore, it shall be a specific violation of this subsection for
82 any person or entity to engage in any oil or gas exploration or production that
83 engages in well stimulation which commences outside of the municipal
84 boundaries of the Village and in any way enters onto, into, or under the
85 ground surface of the municipal boundaries of the Village.
86
87
88

(d) Excavations for purpose of water retention or other land development. No excavation activities, including removal of surplus material may be commenced prior to receiving approval in accordance with the provisions of section 10-329 or chapter 12, as applicable.

Section 3. Codification. The Village Council intends that this Ordinance be made part of the Code of Laws and Ordinances of the Village of Estero, Florida; and that sections of this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-lettered and typographical errors and clarifications of ambiguous wording that do not affect the intent can be corrected with the authorization of the Village Manager without the need for a public hearing.

Section 4. Conflict with other Ordinances. The provisions of this article shall supersede any provisions of existing ordinances in conflict herewith to the extent of said conflict.

Section 5. Severability. In the event that any portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. Effective Date. This Ordinance shall take effect immediately upon its adoption by the Village Council.

PASSED on first reading this 2nd day of December, 2015

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 16th day of December, 2015.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: Kathy Hall
Kathy Hall, MMC
Village Clerk

By: Nicholas Batos
Nicholas Batos
Mayor

Reviewed for legal sufficiency:

By: Burt Saunders
Burt Saunders, Esq.
Village Attorney

	Vote:	AYE	NAY
130	Mayor Batos	<u>✓</u>	_____
131	Vice Mayor Levitan	<u>✓</u>	_____
132	Councilmember Boesch	<u>✓</u>	_____
133	Councilmember Brown	<u>Excused Absence</u>	_____
134	Councilmember Errington	<u>✓</u>	_____
135	Councilmember Ribble	<u>✓</u>	_____
136	Councilmember Wilson	<u>✓</u>	_____