

## **DRAFT PROTECTIVE OIL & GAS ORDINANCE**

**Citizens Allied for Integrity and Accountability (CAIA) is a non-partisan Idaho non-profit and a leading voice in the ongoing effort to educate Idaho citizens and our public officials about the impacts of oil and gas drilling in our communities.**

As you may know, in recent years the state of Idaho has been a focus of out-of-state corporations hoping to develop natural gas and oil resources. Tens of thousands of acres of State- and privately-owned minerals have been leased for future drilling, chemical and fracturing treatments, along with supporting infrastructure necessary for the extraction, processing and transportation of those minerals. Most of these leases lie under or adjacent to housing developments, farms, schools, day-care centers, churches and vast stretches of major river-beds and public roadways.

While this nascent industry struggles to gain its footing here, it remains to be seen if the citizens of Idaho will reap the windfall of revenue and jobs promised by the industry and as yet unseen in the 7 years since modern drilling commenced. To this point, laws and rules put in place by our legislature – largely at the discretion of industry – have focused far more heavily on maximizing hydrocarbon production than on protecting the safety and health of Idaho citizens, the security of our greatest lifetime investments (our homes and businesses), and the preservation of our most critical resources (water, air and soil).

Therefore, we feel it is *crucial* that common-sense protective ordinance specifications are put in place in any jurisdiction in Idaho which may, now or in the future, find itself faced with the prospect of risky industrial activities that would change the nature of its communities.

Idaho code dictates that although no city or county ordinance can prohibit the extraction of oil and gas or construction or operation of the necessary facilities and infrastructure, those activities, facilities and infrastructure are “***subject to reasonable local ordinance provisions which protect public health, public safety, public order or which prevent harm to public infrastructure or degradation of the value, use, and enjoyment of private property.***”

In addition, LLUPA guidelines clearly dictate that ***when local ordinances impose higher standards than are required by any other statute or local ordinance*** (in order to promote the health, safety, and general welfare of the people of the state of Idaho), ***the provisions of the local ordinances shall govern.***

**In light of that, CAIA respectfully submits the enclosed oil and gas ordinance for your consideration and implementation.**

It is our belief that the contents of this document will provide the best protections for the people, property, tax base and critical resources of your jurisdiction against potential negative impacts of pending oil and gas development.

As you may be aware, the recently released 8-page Idaho Association of Counties (IAC) oil and gas ordinance is extremely limited in its scope and falls far short of providing adequate protections.

**CAIA's ordinance contains provisions from ordinances created in more experienced oil and gas producing communities**, including Southlake and Dallas, Texas, which underwent extensive revision after residents and officials witnessed the consequences of accepting weaker, industry-sponsored regulation in surrounding municipalities. While these two documents have similar provisions, we have chosen to use Southlake's clear language, with frequent citations from Dallas', and references from a few other ordinances and sources as well in the "+comments" version of our ordinance draft. (It is noteworthy that many oil and gas executives live in Southlake and that industry professionals along with the public were consulted in the city's ordinance revision, which was deemed necessary to protect all parties in the face of modern oil and gas operations.)

Many expert attorney hours were also involved in the preparation and vetting of these ordinance revisions. Two lawyers who were on the Dallas ordinance task force have provided letters commenting on their experiences. We include these in the flash drive packet provided to you, along with a pertinent article by one of them, T. Welch (who was also involved with the Flower Mound, TX ordinance revision), titled "Backyard Drilling: Local Government Responses to Natural Gas Drilling in the Barnett Shale of North Central Texas" – which touches on some of the many new issues that gas & oil development thrust upon governing jurisdictions in Idaho as well.

**This is a list of the documents provided to you in the flash drive:**

- this cover letter
- 'CAIA O&G ordinance +comments' .pdf
- 'CAIA O&G ordinance -comments' .pdf
- 'Hunt-ordinance-letter' .pdf
- 'Welch-ordinance-letter' .pdf
- 'Backyard Drilling Local Govt Responses to Natural Gas Drilling ABA (v.2) 12-1-12[2]' .pdf *(by Terry Welch)*
- 'SouthLakeTexasGasOrdinance' .pdf
- 'DallasCityCode51A' .pdf *(prepared file includes other pertinent code sections)*
- 'Dallasgasordinance2013Final' .pdf *(includes insertions/deletions, indicating rationales)*

It is our hope that you – those ultimately responsible for protecting the people you serve, along with the planners, attorneys, emergency and physical services personnel – will avail yourselves of the expertise that has been implemented elsewhere, represented in this CAIA draft ordinance, when you undertake an oil and gas ordinance in your jurisdiction.

As drilling, forced-pooling of unwilling mineral rights owners, and preparations for other leasing and infrastructure are already underway in southern Idaho, it would be well to consider that time is of the essence for enacting essential jurisdiction and citizen protections.

Sincerely,

The CAIA Board of Directors