

The City of \_\_\_\_\_, California Ordinance No. \_\_\_\_\_ of 2013

\_\_\_\_\_’s Community Bill of Rights and Water Protection Ordinance

Whereas, water is life – fundamental, universal, and the essence upon which all life on Earth exists; and

Whereas, our human existence, our prosperity, health, safety and well-being depend on the availability of clean water; and

Whereas, the water-poor state of California, prone to drought, already uses in excess of five times the amount of available water; and

Whereas, the drilling process known as hydraulic fracturing, or “fracking” for oil and natural gas, requires massive amounts of water combined with a toxic combination of over five hundred chemicals injected deep underground; and

Whereas, scientific and anecdotal evidence has shown that unnatural, unregulated, secret patent protected chemicals used during “fracking” leach into the water cycle poisoning crops, livestock, animals and humans; and

Whereas, scientific evidence has shown that fracking for oil and gas is a heavy contributor to greenhouse gas emissions into the atmosphere; and

Whereas, we as residents of \_\_\_\_\_ have a moral imperative to protect our local water, our health, and the health and safety of future generations from harm; and

Whereas, human survival on planet Earth relies upon governmental policies that preserve and protect an uninterrupted source of clean water;

Therefore, be it ordained that the people of the City of \_\_\_\_\_ do hereby declare our rights and responsibilities to preserve the integrity of local water as the foundation for environmental, economic and human health security by enacting \_\_\_\_\_’s Community Bill of Rights and Water Protection Ordinance.

### Section 1—Findings and Intent

The people of \_\_\_\_\_ find that government serves its moral imperative when it recognizes and secures fundamental rights. The people understand that the right to life implies that other rights must be respected, guaranteed and secured, including but not limited to, the right to clean water, a healthy environment, freedom from chemical trespass, and the right to protect such rights by enacting community-based legislation and policies. Specifically, life itself depends upon the availability of clean water, which is the lifeblood of any community. The people acknowledge their obligation to protect and preserve the health and integrity of their environment and water supply as beneficiaries of these natural blessings, and to fulfill their responsibilities to future generations.

The people also recognize that corporate activities associated with fracking and the disposal of fracking byproducts in \_\_\_\_\_ would pose serious threats to the rights of residents and natural communities, while posing significant threats to their health, safety, and welfare. Widespread environmental and human health impacts have resulted from fracking-related activities, including the disposal of fracking byproducts. The regulation of these activities by the state does not protect the community. Regulation of an activity specifically permits rights-violating behavior to occur, without respect for nature, the community or consent of the

governed. The permitting of these activities by the State endangers the health, and violates the rights of residents and natural communities, by legalizing chemical trespass upon people and the environment through the introduction of toxins into the air, soil, geology, water, environment, and bodies of residents of the City.

The people of \_\_\_\_\_ recognize that environmental and economic sustainability cannot be achieved if the rights of community majorities are routinely overridden by corporate minorities claiming certain legal powers. For this reason, state-chartered corporations are subordinated to the governance of the people. The people also recognize that sustainability cannot be achieved within a system of preemption which enables those corporations to use State and federal laws to override local self-government, and which restricts the people in their communities to only that lawmaking specifically authorized by State government.

The people of \_\_\_\_\_ believe that the protection of residents and the natural environment constitutes the highest and best use of the police powers that this City possesses. The people also believe that local legislation embodying the interests of the community is mandated by the doctrine of the consent of the governed, and the right to local, community self-government. Thus, the people of \_\_\_\_\_ hereby adopt this ordinance, establishing a Community Bill of Rights for the human and natural communities of the City; banning fracking and related activities, including the disposal of fracking byproducts in the City; removing certain legal powers from corporations that would engage in prohibited activities within \_\_\_\_\_; and nullifying illegitimate laws, permits, and other authorizations which violate the rights secured by this Ordinance.

## Section 2—Definitions

Terms used throughout this Ordinance shall have the meanings as defined in this Section.

- (a) “Corporation” for purposes of this ordinance, shall mean any corporation, limited partnership, limited liability partnership, business trust, business entity, or limited liability company organized under the laws of any state of the United States or under the laws of any country.
- (b) “Dispose of fracking byproducts” and “Disposal of fracking byproducts” shall mean the transportation, storage or depositing into the ground via an injection disposal well of any “fracking byproduct”, or placement of a “fracking byproduct” into the water, air, soil or geology, within \_\_\_\_\_.
- (c) “Ecosystem” shall include, but not be limited to, wetlands, streams, rivers, aquifers, and other water systems, as well as naturally occurring habitats that sustain humans, wildlife, flora and fauna, and soil-dwelling or aquatic organisms.
- (d) “Fracking” shall include the terms “induced hydraulic fracturing,” “hydrofracturing,” “slickwater fracturing,” and other related terms, and shall include any high-pressure well stimulation methods, including but not limited to hydraulic, vapor, steam, or gaseous fracturing, acidization, and other high pressure stimulation methods related to the exploration for, or extraction and production of, fossil fuels. The term shall also refer to all processes and activities, including “horizontal” or “directional” drilling, related to the exploration for, or extraction and production of, fossil fuels when any pressure stimulation methods are employed.
- (e) “Fracking Byproduct” shall mean any substance used for, or resulting from, “fracking” as defined within this ordinance.

(f) “Natural Community” shall mean wildlife, flora, fauna, soil-dwelling and aquatic organisms, as well as humans and human communities that have established sustainable interdependencies within a diverse matrix of organisms, within a natural ecosystem.

(h) “Trespass” as used within this Ordinance shall mean the involuntary deposition of chemicals and substances within a human body, natural community or ecosystem.

(i) “Unalienable” shall mean incapable of being alienated, sold or transferred.

### Section 3---Statements of Law – Rights of \_\_\_\_\_ Residents and the Natural Environment

The rights secured here are not mere privileges; they are obligations justly placed on government and on each member of the community to respect freedoms held individually and collectively by every member of the community.

(a) *Right to Clean Water.* All residents, natural communities and ecosystems in \_\_\_\_\_ possess a fundamental and unalienable right to sustainably access, use, consume, and preserve clean water drawn from natural water cycles.

(b) *Right to Self.* All residents of \_\_\_\_\_ possess a fundamental and unalienable right to the integrity of their bodies, and to be free from involuntary invasions of their bodies by any means, including but not limited to trespass by fracking byproducts, as defined within this ordinance.

(c) *Right to be Free from Chemical Trespass.* All residents, natural communities and ecosystems in \_\_\_\_\_ possess a fundamental and unalienable right to be free from involuntary chemical trespass by any means, including but not limited to, trespass by fracking byproducts, as defined within this ordinance.

(d) *Right to Healthy Environment.* All residents of \_\_\_\_\_ possess a fundamental and unalienable right to a healthy environment, which includes the right to unpolluted air, water, soil, flora, and fauna, freedom from human-induced earthquakes and seismic events, and the right to protect the rights of natural communities and ecosystems upon which each resident is both intrinsically a part and dependent.

(e) *Rights of Natural Communities.* Natural communities and ecosystems, including, but not limited to, wetlands, streams, rivers, aquifers, and other water systems, possess unalienable and fundamental rights to exist and flourish within \_\_\_\_\_. Residents of the City, along with the municipality, shall possess legal standing to enforce those rights on behalf of those natural communities and ecosystems.

(f) *Right to Sustainable Energy Future.* All residents, natural communities, and ecosystems in \_\_\_\_\_ possess a right to a sustainable energy future, which includes, but is not limited to, the development, production, and use of energy from renewable fuel sources.

(g) *Right to Self-Government.* All residents of \_\_\_\_\_ possess the fundamental and unalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people’s authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them.

## Section 4---Statements of Law – Prohibitions Necessary to Secure Bill of Rights Protections

(a) It shall be unlawful for a corporation to engage in fracking or to engage in the disposal of fracking byproducts.

(b) It shall be unlawful for a corporation to extract water from any source for use in fracking or for the disposal of fracking byproducts.

(c) Corporations engaging in fracking or disposal of fracking byproducts in a neighboring municipality, county or state shall be strictly liable for all harms caused to natural water sources, ecosystems, human and natural communities within \_\_\_\_\_.

(d) No permit, license, privilege, charter, or other authority issued by any State or federal entity which would violate the prohibitions of this Ordinance or deprive any Town resident of any rights secured by this Ordinance, the California Constitution, the United States Constitution, or other laws, shall be deemed valid within the City of \_\_\_\_\_.

## Section 5—Enforcement

(a) Any person, corporation, or other entity that violates any prohibition of this Ordinance shall be guilty of a criminal offense and, upon conviction thereof, shall be sentenced to pay the maximum fine allowable under State law for that violation, and shall be imprisoned to the extent allowed by law. A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Ordinance found to be violated.

(b) \_\_\_\_\_ may also enforce this Ordinance through an action in equity. In such an action, \_\_\_\_\_ shall be entitled to recover, without limitation, all costs of litigation, including, but not limited to, expert and attorney’s fees.

(c) Any City resident shall have the authority to enforce this Ordinance through an action in equity. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney’s fees.

(d) Any person who brings an action to secure the rights of ecosystems shall bring that action in the name of the ecosystem in a court of competent jurisdiction. Damages shall be measured by the cost of restoring the ecosystem to its state before the injury, and shall be paid to the City of \_\_\_\_\_ to be used exclusively for the full and complete restoration of the ecosystem.

(e) Corporations and other business entities which violate this Ordinance shall not be deemed to be “persons,” nor possess any other legal rights, privileges, powers, or protections which would interfere with the enforcement of rights or prohibitions enumerated by this Ordinance. Such powers shall include the authority to assert state or federal preemptive laws in an attempt to overturn this Ordinance, and the authority to assert that the people of the Town lack the authority to adopt this Ordinance.

## Section 6—Effective Date and Existing Permit Holders

This Ordinance shall be effective immediately upon its enactment, at which point the Ordinance shall apply to any and all activities regardless of the date of any applicable permits.

## Section 7—People’s Right to Self-Government

Use of the courts or the legislature to attempt to overturn the provisions of this Ordinance shall require community meetings focused on changes to Town government that would secure the rights of the people, and of the Town, from interference with the right of residents to local self-government.

### Section 8—Severability

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. The People of \_\_\_\_\_ hereby declare that in the event of such a decision, and the determination that the court's ruling is legitimate, they would have enacted this Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

### Section 9—Repealer

All inconsistent provisions of prior Ordinances adopted by \_\_\_\_\_ are hereby repealed, but only to the extent necessary to remedy the inconsistency.