

ORDINANCE NO. 4-2008**An Ordinance of South Franklin Township concerning oil and gas well.**

WHEREAS, South Franklin Township is authorized to enact and enforce ordinances regulating zoning in South Franklin Township by the Pennsylvania Municipalities Planning Code; and

WHEREAS, the Supervisors of South Franklin Township believe that it is appropriate to adopt an ordinance regulating oil and gas wells in conformity with the South Franklin Township's Comprehensive Plan and Zoning Ordinance and Planning and Subdivision Ordinances, and

WHEREAS, this proposed ordinance has been reviewed by the Washington County Planning Commission, and

WHEREAS, the South Franklin Township Board of Supervisors have determined that this ordinance will not be adverse to the interest and general welfare of the residents of South Franklin Township.

NOW, THEREFORE, the following is hereby enacted as set below:

Section 1: Oil and gas extraction are permitted as a conditional use after review and recommendation by the South Franklin Township Planning Commission and approval by the South Franklin Township Board of Supervisors.

Section 2: Oil and gas extraction includes extraction of any oil or gas for sale or other commercial purpose, which involves drilling or other means to remove such substance from the earth. The term oil and gas includes, but is not limited to, any crude oil, natural gas, methane gas and coal bed methane gas.

Section 3: All applicants for a conditional use pursuant to this ordinance shall comply with all state and federal regulations and provide proof of compliance to South Franklin Township. Any applicant shall also comply with any South Franklin Township ordinances concerning, but not limited to, screening, excavation and grading and road bonding. Any activity authorized by this ordinance shall be suspended upon the revocation or suspension of any permit required by state or federal regulations. All applicants shall provide the following information:

a. Any drilling permits issued by the Commonwealth of Pennsylvania, or the application, if a permit has not yet been issued.

b. The name and address of the applicant, including the name and multiple telephone numbers of local representatives.

c. The proposed or existing location of the well or wells.

Section 4: All applicants shall provide reclamation plans for any site where oil and gas extraction activities occur.

Section 5: All applicants shall provide plans to screen, secure and landscape any site where oil and gas extraction activities occur deemed appropriate by the Township Supervisors.

Section 6: Any conditional use approval issued pursuant to this ordinance shall expire within one year of issuance unless the subject facility is in active construction and/or production.

Section 7: All applicants shall designate what roads will be used to construct, operate and maintain any activity authorized by this ordinance and **shall repair and maintain such roads in the condition such roads were in prior to use by applicant** and shall post bonds to maintain any such Township roads in an amount to be determined by the South Franklin Township Board of Supervisors consistent with the applicable law. Additionally, all applicants shall provide for inspection, maintenance and repair of such Township roads affected by the applicant's activities authorized by this ordinance.

Section 8: Any roads, streets, or alleys used by applicants shall be kept free of mud, dust, gravel or any other material deposited on such streets by applicant's activities authorized by this ordinance. Any newly established private easements/roadways constructed on the parcel containing the well shall be located at least 20 feet from any property line, unless consent is obtained from the adjoining property owner.

Section 9: All applicants shall post a performance bond as required by the Department of

Environmental Protection (DEP) to the South Franklin Township Board of Supervisors to guarantee the completion of the activities approved pursuant to this ordinance, as well as the cleaning up and/or removal of any and all facilities, materials, supplies, equipment and machinery upon completion of activities.

Section 10: All applicants shall reimburse South Franklin Township all professional consultant fees, advertising and costs of public hearings incurred by the Township related to applications for activities authorized by this ordinance. **All applicants shall reimburse the Township for consulting fees and costs incurred in enforcing this ordinance upon a finding of violation by a District Justice.**

Section 11: (See Amendment) All applicants submitting a conditional use request, **per production well**, for activities authorized by this ordinance shall do so on an application form provided by South Franklin Township and shall submit an application fee in the amount of \$1,250.00, which said fee shall be applied to the costs referenced in Section 11 herein. All applicants will be invoiced on a monthly basis for the costs referenced in Section 11 herein, and such costs will be due within thirty (30) days of mailing.

Section 12: A Preparedness Prevention and Contingency Plan, as required by and filed with the Pennsylvania Department of Environmental Protection, shall be submitted.

Section 13: The applicant agrees to an Emergency Response Plan for local fire departments as follows:

During the well drilling activities, the fire department or departments will be directed by the well company's competent person on the scene on how to handle the situation at hand. After well drilling activities are completed, when no competent person is on site, evacuate and isolate the area 350 feet around the affected site and contact the Department of Environmental Protection emergency response number, 1-800-541-2050. If there is a life or death situation after well drilling activities are completed and someone is in the immediate danger zone, the officers of the fire department shall use their best judgment to make sure there are no dangers such as fire, electrocution, high pressure release, etc. Best judgment is to be used while maintaining a perimeter and waiting for well company personnel to arrive or advise.

Section 14: If the access road is of sufficient length, the access road to the well site shall be required to be improved with 200 feet of limestone before entering a Township road, and regardless of the length, be graded in such a manner as to degree of slope so that no excess water, sediment or debris will be carried onto a public street or road.

Section 15: Any violation of this Ordinance shall be punished by fine as a summary offense of not less than \$500.00 per violation per day. Each day that a violation exists shall constitute a separate offense. Additionally, and not by way of limitation, the Township may also enforce the Ordinance by any appropriate action at law or in equity. The penalties and/or sanctions provided herein shall be cumulative of other remedies provided by the laws of the Commonwealth of Pennsylvania, including but not limited to, injunctive relief.

Section 16: Consistent with Section 205 of the Oil and Gas Act 58 P.S. §601.205, wells may not be drilled within 200 feet measured horizontally from any existing habitable structure or existing water well without the written consent of the owner thereof. Where the distance restriction would deprive the owner of the oil and gas rights of the right to produce or share in the oil or gas underlying said surface tract, the well operator may be granted a waiver from said distance restriction by the Department of Environmental Protection upon submission of a plan to the Department of Environmental Protection which shall identify the additional measures, facilities or practices to be employed during well site construction, drilling and operations. The waiver, if granted, shall include such additional terms and conditions as the Department of Environmental Protection shall require to ensure the safety and protection of affected persons and property. Further, no well site may be prepared or well drilled within 100 feet measured horizontally from any stream, spring or body of water as identified on the most current 7 ½ minute topographic quadrangle map of the United States Geological Survey or within 100 feet of any wetlands greater than one acre in size. The Department

of Environmental Protection may waive such distance restrictions upon submission of a plan which shall identify the additional measures, facilities or practices to be employed during well site construction, drilling and operations. Such waiver, if granted by the Department of Environmental Protection, shall impose such permit conditions as are necessary to protect the waters of the Commonwealth and shall be accepted by South Franklin Township.

Section 17: The South Franklin Township Supervisors are authorized to prepare and enforce regulations necessary to implement the intent of this ordinance.

Section 18: Any ordinance or resolution inconsistent with this ordinance is repealed. In limitation of the foregoing, to the extent that any other ordinance of the Township including, but not limited to, the South Franklin Township Zoning Ordinance and the South Franklin Township Land Development and Subdivision Ordinance, contain any stricter requirements or limitations, the same shall prevail.

Section 19: The invalidity of any part of this ordinance will not affect any remaining portions of this ordinance.

Section 20: The ordinance shall become effective on the date of adoption.

ENACTED into law this 13 th day of October, 2008.

AMENDMENT TO ORDINANCE NO. 4-2008

An Amendment to Ordinance of South Franklin Township amending Ordinance No. 4-2008 in regards to the amount of the application fee, Section 11, increasing the same to \$1,500.00 and authorizing subsequent changes by resolution.

WHEREAS, South Franklin Township enacted Ordinance No. 4-2008 on September 30, 2008, and **WHEREAS**, Section 11 thereof requires an application fee of \$1,250.00 which first shall be applied to the costs, otherwise referenced in said Ordinance, and

WHEREAS, it has been determined that said amount is insufficient.

NOW, THEREFORE, the following is hereby enacted:

1. Section 11 of Ordinance No. 4-2008 is hereby amended to change the amount of the application fee to \$1,500.00, and the Board of Supervisors by majority vote may subsequently reset said amount by resolution.
2. All other portions of Section 11 and said Ordinance not specifically amended herein shall remain in full force and effect.
3. The invalidity of any part of this Amendment to Ordinance will not affect any remaining portions or the Ordinance and/or this Amendment to Ordinance.
4. This Amendment to Ordinance shall become effective on the date of adoption.

ENACTED into law this 17 day of December, 2008.