

**TOWNSHIP OF NORTH FRANKLIN**  
**WASHINGTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1-2011

**AN ORDINANCE OF THE TOWNSHIP OF NORTH FRANKLIN, WASHINGTON COUNTY, PENNSYLVANIA, TO PROVIDE FOR THE ZONING OF OIL AND GAS DRILLING OPERATIONS AS A CONDITIONAL USE IN ZONING DISTRICTS R1 AND PED AND FOR NATURAL GAS COMPRESSOR STATIONS AS A CONDITIONAL USE IN THE PED ZONING DISTRICT WITHIN THE TOWNSHIP.**

WHEREAS, The North Franklin Township Supervisors have the power to protect the health, safety, and welfare of the people and property in the Township.

WHEREAS, The North Franklin Township Supervisors believe that it is in the best interest of the residents and citizens that the Township be provided certain information prior to commencement of Oil and Gas drilling operations or the installation of natural gas compressor stations.

WHEREAS, The North Franklin Township Board of Supervisors wish to amend their Zoning Ordinance to provide for Oil and Gas drilling operations as a conditional use in the R-1 and PED districts and for installation of natural gas compressor stations in the PED district within the Township.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED and it is hereby ordained and enacted by the Board of Supervisors of the Township of North Franklin, Washington County, Pennsylvania, as follows:

**SECTION 1. Purpose.**

This Ordinance is adopted for the following purposes:

1. To ensure compliance with the Township's Subdivision and Land Development Ordinance. (No. 2-1997)
2. To provide for the proper distribution of development so as to make the most efficient use of existing community facilities, transportation networks and public infrastructure;
2. To encourage residential, commercial, institutional and industrial uses in the most appropriate locations;

3. To strengthen existing communities by encouraging a mixture of residential, commercial and institutional uses within the boundaries of existing public infrastructure;
4. To clearly define the urban and rural sections of the Township;
5. To protect the environment of the Township by giving special attention to preserving and promoting the Township's natural assets such as woodlands, streams, rivers and steep slopes;
6. To declare the development of Oil and Gas as a conditional use in the R-1 and PED zoning districts within the Township and the installation of natural gas compressor stations in the area described as "the PED zoning district. This shall be restricted in the corridor running from Route 18 to Interstate 70" in the PED zoning district within the Township. North Franklin Township recognizes that the regulation of oil and gas operations is the responsibility of the regulatory agencies of the Commonwealth of Pennsylvania, but that the Township maintains its zoning powers as set forth in Pennsylvania Statute Title 53, Municipalities Planning Code ("MPC") and through the Township of North Franklin Zoning Ordinance;
7. It is also in the Township's best interest to have information concerning oil and gas exploration, development, and production taking place within the Township and to ensure certain security and safety measures related to oil and gas well activities are in place for this area.

## **SECTION 2. Definitions.**

As used in this ordinance, the following terms shall be interpreted or defined as follows:

### **DEP – PA Department of Environmental Protection**

**Oil and Gas Development or Development.** The well site preparation, well site construction, drilling, hydraulic fracturing, and/or site restoration associated with an Oil and Gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of Oil and Gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of Oil and Gas within the Township.

**Township.** North Franklin Township, Washington County, Pennsylvania.

**Oil and Gas.** Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane, and/or any other constituents or similar substances that are produced by drilling a well of any depth into, through, and below the surface of the earth.

**Operator.** Any person, partnership, joint venture, company, corporation and its subcontractors and agents who has an interest in real estate for the purpose of exploring or drilling for, producing or transporting Oil or Gas.

**Protected Structure.** Any occupied residence, commercial business, school, religious institution or other public building located within 1,000 feet of the surface location of a well that may be impacted by noise generated from drilling or hydraulic fracturing activity at a Well Site. The term shall not include any structure owned by an oil and gas lessor who has signed a lease with the Operator granting surface rights to drill the subject well or whose owner (or occupants) has (have) signed a waiver relieving the Operator from implementation of the measures established in Section 4, Paragraph 11 of this Ordinance for the owner's (occupant's) benefit.

**Well Site.** A graded pad designed and constructed for the drilling of one or more Oil and Gas wells.

**Natural Gas Compressor Station.** A facility designed and constructed to compress natural gas that originates from an Oil and Gas well or collection of such wells operating as a midstream facility for delivery of Oil and Gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks, and other equipment.

**Natural Gas Processing Plant.** A facility designed and constructed to remove materials such as methane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets but not including facilities or equipment that are/is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from natural gas.

**Related structures.** Trailers, sheds, sewage and fuel holding tanks and temporary sewage holding tanks, generators, fuel compressors, water tanks and any other equipment related to the drilling process.

### **SECTION 3. Zoning/ Permitted as Conditional Use.**

1. North Franklin Township hereby declares that Oil and Gas Development is permitted as a conditional use in R-1 and PED zoning districts in the Township.
2. North Franklin Township hereby declares that the installation of natural gas compressor stations is permitted as a conditional use located between Route 18 and Interstate 70" in the PED zoning district within the Township.
3. All applicants must comply with the conditional use requirements of the Township and obtain a Conditional Use Permit before commencing any site preparation or drilling operations.
4. Applicants must file a Conditional Use Application (in the form attached as Exhibit "A") and pay the required application and filing fees to the Township. Township recognizes that oil and gas drilling is a phased operation that may span many months, and it is the intent of this Ordinance to allow for the contemplated operation of oil and gas drilling activities in the Township without imposing any unnecessary hardship or delay on the Operator. Applicant, so long as the information is available, will provide Township with detailed information concerning its planned operations, drawings, permits obtained from other County and State administrative departments, and a proposed timeline for the development of the drill site. Township requests the following information be included in the initial application:
  - A. Exhibit "A" information.
    - (i) A general list and description of all equipment weighing in excess of 13 tons and identification of the proposed routing of vehicles on Township roads.
    - (ii) Acknowledgement that all vehicles shall comply with applicable OSHA and DOT regulations.
    - (iii) A copy of Applicant's Preparedness, Prevention and Contingency (PPC Plan) Plan must be filed with the Township by the Applicant/Operator.
    - (iv) Outline of the orientation program for Township's first responders.
    - (v) Map showing the planned access route to the well site from public roads.
    - (vi) A description of size and composition of the access road to be installed to the drill site.

- (vii) Information concerning trailers that will be located on site with a general statement as to the number of individuals who may temporarily reside in the trailers as well as detailed information concerning water tanks and holding tanks for sewage.
- (viii) Any information available to Applicant concerning open, abandoned and unplugged well sites.
- (ix) Location of centralized water impoundment (fresh water and flow back).

B. ESCGP-1 Application filed with the PA Department of Environmental Protection and any additional information required under the Township Grading Ordinance (No. 2-1999)

C. In so far as the Conditional Use Application will overlap with other zoning ordinances and requirements within the Township, all applications for the relevant permits shall be consolidated under the Oil and Gas Drilling Application and applicant must comply with the requirements of the following related Ordinances:

- (i) Holding Tank Ordinance dated August 11, 2010. (Ordinance No. 1-2010), if applicant intends to maintain water and sewer holding tanks on site.
- (ii) Temporary Construction & Mobile Trailer Permits as required by Section 1343 of the Township Zoning Ordinance.
- (iii) Grading and Excavation Ordinance dated April of 1999 (Ordinance No.2-1999)
- (iv) Noise Ordinance dated November 13, 2010 (Ordinance No. 2-2010)

D. Compressor Station Building Plans, if applicable.

5. The Application and required information will be submitted to the Township Planning Commission for review. So long as the Application is complete and the required filing fee has been paid to the Township, the Planning Commission will report its findings and

recommendations to the Board of Supervisors. The Board of Supervisors will hold the required public hearings.

6. North Franklin Township will review, hold a public hearing and act upon an application within forty-five (45) days of filing. If Township fails to act within this time period, the application of Operator will be deemed approved unless an extension of this time period is agreed to in writing by the applicant. The Board of Supervisors and Planning Commission will hold special meetings and hearings upon written request of the applicant.
7. The Conditional Use Approval will become effective as follows:
  - A. Approval to grade and excavate drill site upon submission of Operator's ESCGP1 Application as filed with the DEP; compliance with Township Excavation and Grading Ordinance; payment of excavation and grading fees and signing of Excess Road Maintenance Agreement with the Township.
  - B. Conditional Use Approval will also cover use of water tanks and holding tanks on site; and installation of temporary mobile trailers, with the understanding that the Township may attach reasonable conditions for use, maintenance and operation of these items.
  - C. Drilling operations can begin with the submission to the Township of a true copy of the DEP Permit issued and the mobilization of a security trailer and guard at the access road entrance to the drill site.
  - D. The Conditional Use Permit will remain open and will coincide with the time limits established by the DEP and extensions given to the Operator by the DEP. In addition, Operator must strictly adhere to maintenance, repair and debris removal of Township roads used in the routing system for the respective drill sites and participate in public meetings as requested by Township to address residents' concerns and provide the public with progress and status reports on the permitted drill sites.
8. Issuance of a conditional use permit will also include permits for grading and excavation of the drill site; temporary construction trailers and related facilities; and water and sewage holding tanks.
9. Applicant shall pay the required Excavation and Grading Fees as established by the Township Supervisors in the Excavation and Grading Ordinance or in the Township fee schedule adopted by Resolution of the Supervisors.

**SECTION 4. Conditional Use Requirements.**

1. The Conditional Use Application hereunder must comply with the general criteria for granting conditional uses as set forth in Article 13, Section 1301 of the Township Zoning Ordinance and Article 14-Supplemental Regulations, Section 1401 Performance Standards, Subparagraphs (a) through (k).
2. If information required hereunder is not available at the time the Conditional Use Permit is issued, Applicant/Operator will have a continuing obligation to supplement the Application with the required information as it becomes available.
3. The applicant or owner of the oil or gas well shall execute an excess maintenance agreement with the Township for a Type 2 permit and post a bond at the paved highway rate in favor of the Township in a form acceptable to the Township prior to beginning any work on a drill site. The bond is to guarantee restoration of Township roads damaged as a result of hauling associated with the drilling operation.
4. Operator will ensure access road to the well site is prepared with a proper grade stone material from a public street cart way fifty (50) feet in width into the drill site. The impervious material shall be in place prior to the commencement of the drilling operation. Operator shall take the necessary safeguards to ensure that the Township roads remain free of dirt, mud and debris resulting from oil and gas development activities. If the access road to the well site intersects with a Township road/street, a driveway permit shall be obtained in accordance with Township requirements. An off street area for maintenance vehicles to park while waiting for entrance to access road shall be provided that does not disrupt the normal flow of traffic on the public street.
5. The access driveway off the public road to the drill site shall be gated at the entrance to prevent illegal access into the drill site. The drill site assigned address shall be clearly visible on the access gate for emergency 911 purposes. In addition, the sign shall include the well name and number, name of the operator and the telephone number for a person responsible who may be contacted in case of emergency.
6. Operator shall take all necessary precautions to ensure the safety of persons in areas established for road crossing and/or adjacent to roadways (for example persons waiting for public or school transportation). Where necessary and permitted, during periods of anticipated heavy or frequent truck traffic associated with oil and gas development, Operator will provide flagmen to promote the safety of children at or near schools or school bus stops and

include adequate signs and/or other warning measures for truck traffic and vehicular traffic.

7. The maintenance and prompt repair of Township roads that may be damaged as a result of drilling operations is of primary concern to the Township Supervisors and the residents of the Township. Accordingly, Operator shall be required to enter into an Excess Road Maintenance Agreement as part of the Conditional Use Permit. Said Agreement will be agreed to by Operator, the Township's Supervisors and Solicitor. The Excess Maintenance Agreement shall include but not be limited to the following:
  - A. Township will appoint a qualified inspector to make routine inspection of the roads utilized by the Applicant and its Contractors.
  - B. Operator will pay Inspector an hourly rate not to exceed \$25.00/hour plus ancillary costs, including mileage.
  - C. Inspector's duties will include the following:
    - (i) Inspect and document road conditions prior to site construction and drilling activity
    - (ii) Frequency of inspection will increase during rig movements and mobilization, construction and drilling of well and during fracking process.
    - (iii) Inspect road within 24 hours of a complaint by Township officials or residents and submit written report to Township and Operator.
    - (iv) Obtain written estimate to repair road damage created by drilling activities and provide Township and Operator with copies as soon as possible.
    - (v) All damage reports and repairs will be documented by an inspection report and before-and-after photographs.
8. Before drilling, the Township shall ascertain whether the township's First Responders have secured adequate information to deal with any potential dangerous conditions that may result due to oil and gas development activities. First Responders shall have an on site orientation and be provided adequate awareness information. Upon request from the Township, Operator will, prior to drilling of an Oil or Gas well, make available with at least 15 days' notice, at its sole cost and expense, an appropriate site orientation for First Responders. Such site orientation shall be made available at least annually during the periods when the Operator anticipates drilling activities in the Township.
9. Recognizing that the specific location of equipment and facilities is an important and integral part of Oil and Gas Development. Operator shall strive to consider location of its temporary and permanent operations, where prudent and possible, so as to minimize interference with Township residents' enjoyment of their property and future Township development activities as



authorized by the Township of North Franklin Zoning Ordinance and Comprehensive Plan. Operator will use its best efforts to buffer each well site.

10. Adequate and appropriate lighting is essential to the safety of those involved in Oil and Gas development. The Operator shall take steps, to the extent practicable, to direct site lighting downward and inward toward the drill site, wellhead, or other area being developed so as to attempt to minimize glare on public roads and adjacent buildings within three hundred (300) feet of the drill site, wellhead or other area being developed. Any material stored outside an enclosed structure being used as an incidental part of the primary operation shall be screened by opaque ornamental fencing, walls or evergreen plant material in order to minimize visibility if the storage area is readily visible from adjoining occupied residential properties. Such material shall not be deemed to include operable vehicles.
11. Dust, vibration, odors – all drilling operations shall be conducted in such a manner to minimize dust, vibration or noxious odors and shall be in accordance with the best accepted practices incident to drilling for oil or gas in urban/suburban area. All equipment used shall be constructed and operated so that vibrations, dust, odor or other harmful or annoying effects are minimized by the operations carried on at the drill site to avoid injury or annoyance of persons living in the vicinity.
12. In addition to the requirements in subsections above, for any Oil and Gas well where the planned surface location of the well will be within 1000 feet of Protected Structure, the Operator shall:
  - A. Install permanent safety fencing, at least (6) feet in height, with green fabric mesh, around drilling and hydraulic fracturing equipment and install permanent fall protection fencing meeting OSHA requirements around any pits that contain or could contain water or other liquids at depths greater than two (2) feet.
  - B. Install warning signs providing notice of the potential dangers at the Well Site.
  - C. Operator shall provide at least one on site company agent 24/7 at all times when a drilling rig or hydraulic fracturing equipment is on the Well site.
13. Prior to the commencement of drilling activities, no construction activities

Involving excavation of, alteration to or repair work on any access road or Well Site shall be performed during the hours of 9p.m. to 7a.m.

All Oil and Gas Development, whether conducted by Operator or its contractors and subcontractors shall be subject to all noise restrictions

codified in the Township Zoning Ordinances. In addition to complying with the Township Ordinances, the Operator must submit the following:

- A. If deemed necessary, the Township may require acoustical blankets, sound walls, mufflers or other alternative methods to ensure compliance depending on the proximity of a proposed drill site to adjacent residential properties. All drill site operations shall comply with the noise and vibration performance standards set forth in Section 1401 of the Township Zoning Ordinance.
  - B. If a complaint is received by the Township from any person using a Protected Structure, Operator agrees to meet with the Township officials as soon as practicable, to discuss mitigation or remedial measures that can be taken.
  - C. All measurements of noise are to be made when the operation is fully operational in accordance with ANSI Standards. Measurements taken during breaks or machine idling periods are presumed to be invalid.
  - D. If a violation is found by the Township, Operator must:
    - (i) immediately cease that operation which is producing noise in excess of that permitted by Township Ordinance until adjustments or modification are made to bring the noise level within allowable limits set forth in said Ordinance; or
    - (ii) obtain and provide to the Township an agreement from the affected property owner consenting to Operator's exceeding the noise level; or
    - (iii) pay to the Township within seven (7) days of completion of drilling the sum of \$250.00 for each day that said noise level is exceeded.
14. Within ten (10) days of receiving a written request from the owner of a property under which Operator is conducting drilling operations, Operator shall provide to the requesting property owner a copy of the well record and completion report, with attachments, as submitted to DEP, along with the true sea-level elevation the exact point of the well's location and the true sea-level elevation of the starting point of measurement, if included in said report. Operator will honor other reasonable requests for drilling information.
15. Operator shall be responsible for and promptly pay all applicable temporary construction trailer permit fees in advance of any such construction trailer being placed at a drill site within the Township. Operator shall be responsible

Issuance of a Conditional Use Permit will also include the Permit for the Operator to grade and excavate the drill site and to locate temporary construction trailers and related facilities on the site during the drilling process.

An Operator will be permitted to initiate the conditional use process so long as it has filed the appropriate application with the DEP, and conditional use approval will be conditioned upon Operator providing Township a copy of the DEP permit when issued.

**SECTION 6. Engineering Costs and Fees, Grading Fees, Road Bonding and Maintenance Costs.**

1. **Excavating and Grading Fees.** Applicant shall pay the required grading and excavation fees required by the Fee & Permit Schedule adopted by the Township.
2. **Road Bonding and Maintenance costs.** Applicant shall post a road bond in the amount of \$12,500.00 per mile for improved, weight restricted Township roads. The Township shall notify Operator of any problems with the roads utilized by Operator so that Operator may review the alleged problem and take necessary action if Operator decides to repair or take corrective action as required by the Excess Road Maintenance Agreement.
3. **Township Cost and Fees.** Operator shall reimburse the Township within ten (10) days of invoice for all advertising, court reporter appearance fees, zoning, and code enforcement officer and other reasonable out-of-pocket cost incurred by the Township in processing the conditional use applications for the well sites. Any court reporter transcription costs shall be borne by the party requesting the transcript. Operator shall also reimburse the Township for all reasonable fees incurred in conjunction with review of the subject conditional use application, land development plan and the processing of the same. Failure of Applicant to pay the required fees will result in the suspension of the conditional use permit issued and all operations must cease until said costs and fees have been paid. Any dispute as to the reasonableness of any cost invoiced pursuant to this section shall be resolved in accordance with applicable provisions of the Municipalities Planning Code.

**SECTION 7. Penalties.**

Any Operator who violates or permits a violation of this chapter shall, upon being found liable therefore in a civil enforcement proceeding commence by the Township before a Magisterial District Judge, pay a fine of not more than \$600.00 plus all court costs, including reasonable attorney's fees incurred by the Township in the enforcement of this

for and pay these fees regardless of whether the construction trailers are owned by Operator or owned by any contractor or subcontractor. Only one permit fee shall be required for a trailer used at multiple well sites during any six month period.

16. In order to promptly resolve any complaints by Township residents regarding the drilling or production operation conducted by Operator pursuant to this conditional use, Operator will provide the Police Department with primary and secondary telephone numbers at which Operator's representatives may be contacted and of these at least two (2) shall be available on a twenty-four (24) hour per day basis for the purpose of receiving and resolving complaints made by Township residents or the Township. A representative of Operator must respond to any noise complaint and be on site as soon as possible.
17. If a Township resident is affected by the drilling or production operations of Operator, the resident and Operator shall make a good faith effort to directly resolve or ameliorate the inconvenience cause to the resident with out intervention by the Township.
18. Operator will use its best efforts to eliminate odors caused by drilling operations and will consider installation of oxidizer systems or similar equipment at or near the drill site.
19. After the drilling operation is complete, the drill operator shall remediate and reclaim the site as required by DEP regulations.
20. The Conditional Use Permit for oil and gas drilling shall be subject to the following conditions and/or standards:
  - A. An oil or gas well shall not be located within the flight path of a runway facility of an airport.
  - B. An oil or gas well shall not be located closer than two-hundred (200) feet from residential dwelling or fifty (50) feet from any property line or right-of-way.
  - C. An oil or gas well shall provide fencing and shrubbery around perimeter of the pump head and support frame.
  - D. The Zoning Hearing Board may attach additional conditions pursuant to this section, in order to protect the public's health, safety and welfare. These conditions may include but are not limited to increased setbacks.

#### SECTION 5. Permitting Process

Issuance of a Conditional Use Permit will also include the Permit for the Operator to grade and excavate the drill site and to locate temporary construction trailers and related facilities on the site during the drilling process.

An Operator will be permitted to initiate the conditional use process so long as it has filed the appropriate application with the DEP, and conditional use approval will be conditioned upon Operator providing Township a copy of the DEP permit when issued.

**SECTION 6. Engineering Costs and Fees, Grading Fees, Road Bonding and Maintenance Costs.**

1. **Excavating and Grading Fees.** Applicant shall pay the required grading and excavation fees required by the Fee & Permit Schedule adopted by the Township.
2. **Road Bonding and Maintenance costs.** Applicant shall post a road bond in the amount of \$12,500.00 per mile for improved, weight restricted Township roads. The Township shall notify Operator of any problems with the roads utilized by Operator so that Operator may review the alleged problem and take necessary action if Operator decides to repair or take corrective action as required by the Excess Road Maintenance Agreement.
3. **Township Cost and Fees.** Operator shall reimburse the Township within ten (10) days of invoice for all advertising, court reporter appearance fees, zoning, and code enforcement officer and other reasonable out-of-pocket cost incurred by the Township in processing the conditional use applications for the well sites. Any court reporter transcription costs shall be borne by the party requesting the transcript. Operator shall also reimburse the Township for all reasonable fees incurred in conjunction with review of the subject conditional use application, land development plan and the processing of the same. Failure of Applicant to pay the required fees will result in the suspension of the conditional use permit issued and all operations must cease until said costs and fees have been paid. Any dispute as to the reasonableness of any cost invoiced pursuant to this section shall be resolved in accordance with applicable provisions of the Municipalities Planning Code.

**SECTION 7. Penalties.**

Any Operator who violates or permits a violation of this chapter shall, upon being found liable therefore in a civil enforcement proceeding commence by the Township before a Magisterial District Judge, pay a fine of not more than \$600.00 plus all court costs, including reasonable attorney's fees incurred by the Township in the enforcement of this

chapter. No judgment shall be imposed until the day of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offence. Unless the appropriate Court determines there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed there was no such violation, in which event there shall have been deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge, and thereafter each day that a violation continues, shall constitute a separate violation. Further, the appropriate officers or agents of the Township are hereby authorized, to issue a cease and desist notice and/or to seek equitable relief, including injunction, to enforce compliance herewith. No Bond will be required if injunctive relieve is sought by the Township. A person who violates this Ordinance shall also be responsible for the Township's attorney's fees and court costs associated with enforcement.

**SECTION 8. Effective Date.**

This ordinance shall take effect five (5) days after passage.

ORDAINED AND ENACTED by the Supervisors of North Franklin Township,  
Washington County, Pennsylvania, the 12 day of January 2011

ATTEST:

Jacqueline M. Koehn  
Secretary

BOARD OF SUPERVISORS  
NORTH FRANKLIN TOWNSHIP

By: Shirley A. Paul  
Chairman, Board of Supervisors

By: Filipe Pascoal Aguiar  
Supervisor

By: J. Depp  
Supervisor