

**TOWNSHIP OF JACKSON,
CAMBRIA COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWNSHIP OF JACKSON, CAMBRIA COUNTY,
PENNSYLVANIA, REGULATING SURFACE AND LAND DEVELOPMENT
ASSOCIATED WITH OIL AND GAS DRILLING OPERATIONS AND
PROVIDING PENALTIES FOR VIOLATION OF SAME**

SECTION I: PURPOSE

The Township of Jackson, Cambria County, Pennsylvania, contains vast areas of farms and other land subject to future development. Many of these lands are subject to drilling operations conducted by oil and gas companies and/or other persons attempting to extract oil, gas and related products from their substrata. These drilling operations require the construction of access roads and oil and/or gas transportation lines which impact the surface of the land and, if left unregulated, adversely affect continuing development.

This Ordinance is enacted/ensured to enable continuing oil and gas drilling operations in ensure the orderly development of property through the location of access ways, transportation lines and treatment facilities necessarily associated with same. Nothing in this Ordinance shall be deemed or construed to be in conflict with the Pennsylvania Oil and Gas Act, as same is set forth in 58 P.S. §601.101, et seq. To the extent any term or provision set forth hereafter is found to be in conflict with such Act, the terms of the Oil and Gas Act shall supercede this Ordinance.

SECTION II: DEFINITIONS

The words and terms used in this act shall have the following meanings unless the context clearly indicates otherwise:

Access Road or Access Way - Any road or access way extending from a public road or private road or cart way to a well site, transmission line, treatment facility or any other improvement used or associated with drilling operations, proposed or existing.

Board of Supervisors or Board - The Board of Supervisors of the Township of Jackson, Cambria County, Pennsylvania, or their designees.

Developed Spring - A spring or other water source used to supply, in whole or in part, water for personal consumption, farming, livestock or other commercial activity on property.

Drilling Operation or Operations - The use, development, construction and/or maintenance of any and all facilities used to drill for or otherwise, regardless of formation, used in the extraction of oil, natural gas, methane gas or other similar products (regardless of formation, including the installation and utilization of access ways for equipment and the construction and maintenance of oil and gas transportation lines. This term shall also be deemed to include the construction of treatment and/or other facilities where oil, natural gas, or its byproducts are cleaned or processes.

Gas - Any natural gas, whether contained in coal beds or otherwise, including methane gas, removed or removable from sub-surface seams through conventional drilling operations, air, explosives, hydro-fracturing or any other method used to transmit such gas to the surface for transmission off the property.

Owner - A person who owns, manages, leases, controls or possesses a well, right to oil and/or natural gas, whether same are separate from the surface owner or otherwise.

Private Water Supply - Any water supply that is not a public water supply.

Public Water Supply - Any water system that is subject to the Pennsylvania Safe Drinking Water Act (35 P.S. § 721.1 through 721.17).

Surface Owner - Any person having legal title in and to the surface of real estate subject to an existing oil and/or gas lease or oil and gas reserves subject to a drilling operation.

Township - The Township of Jackson, Cambria County, Pennsylvania.

Transportation Line - Any pipe line or conduct used to transport oil, gas and/or any waste or by-product, from a well site, to location on or off the property.

Water Supply - A supply of water for human consumption or use, or for agricultural, commercial, industrial or other legitimate beneficial uses.

Well Operator or Operator - Any person, corporation, partnership, firm or other business entity designed as the well operator or operator on the permit application or well

registration with the Commonwealth of Pennsylvania Department of Environmental Protection. If a permit or registration was not issued, this term shall mean a person that locates, drills, operates, alters or plugs a well or reconditions a well with the purpose of production therefrom. In cases where a well is used in connection with the underground storage of gas, the term also means a storage operator.

Well Site - The area over which any equipment or facilities necessary for or incidental to the drilling, production or plugging of a well.

SECTION III: REQUIRED APPROVALS

A. From and after the effective date of this Ordinance, no person, owner, well operator, operator or surface owner shall be permitted to engage in surface disturbance activities associated with drilling operations, nor shall they permit disturbance of the surface of any land associated with or arising from drilling operations within the Township of Jackson, Cambria County, Pennsylvania, without receiving written approval for same from the Board of Supervisors of the Township and Cambria County Conservation District, if necessary.

B. Any owner, well operator, operator and/or surface owner seeking approval for surface disturbance activities associated with oil and/or gas well drilling operations shall submit an Application for Drilling Operation Surface Disturbance Approval to the Township on the form attached hereto, such form of Application being approved by the Township Supervisors, and be accompanied by the following information:

1. A copy of the Application to engage in such operations submitted to the Commonwealth of Pennsylvania Department of Environmental Protection.

2. A copy of the Plat of the property upon which drilling operations are to occur, as submitted to the DEP, depicting the potential locations of any improvements (i.e. houses, barns and/or accessory structures) and the location of any ponds, streams, water wells, developed springs and/or other surface and/or sub-surface water supplies on the property, and within One Thousand Feet (1 000') of the well site, even if such improvements are off the property.

3. The Plat referenced in Paragraph 2 above shall contain the preliminary location of all proposed transmission lines from each well site through the property and the location of all access roads from any public thoroughfare within the Township to the well site. Not later than thirty (30) days following the construction of any transmission lines

pursuant to this Ordinance, the Owner/Operator shall submit to the Township a scaled drawing showing the "As Built" locations of the transmission lines on the property.

4. A copy of a flow test evidencing the gallon per minute recovery rates of all wells on the property subject to drilling operations in use for any private residence or residences upon such property prior to the beginning of drilling operations.

5. A copy of a water quality test on all water wells, developed springs and surface waters establishing the base chemical composition of all well and surface water supplies on the property and within One Thousand Feet (1000') of the well site prior to common drilling approval even if they are located off the property. At a minimum, such tests shall be conducted to establish the presence and levels of bacteria/coliform, salt, sulfur, hydro-carbons, and/or other contaminants commonly associated with oil and gas drilling operations.

SECTION IV: SURFACE CONSTRUCTION/OPERATION REQUIREMENTS

A. ACCESS ROADS:

1. All access roads to any well site shall be located in a manner that provides the most direct and feasible means of access to a well site from a public road or right of way, given the contours of the land and other surface particularities.

2. Second and/or subsequent well sites on any property shall utilize the same access way from the public right of way and be directed from well site to well site unless otherwise approved by the Board of Supervisors.

3. During the construction of any gas well and related facilities, access roads shall be of sufficient width to accommodate the transportation of equipment used in the construction process. Upon completion of construction activities, any access road which are not more than fifteen feet (15') in width and be constructed of materials that will facilitate removal and surface restoration following abandonment of the well, well site and/or drilling operations. The owner/operator shall restore any area around such access road in excess of fifteen feet (15') in width disturbed by the transportation of equipment during construction to as close as possible to its pre-construction condition.

4. Any access road constructed under this Ordinance shall meet and maintain the following standards:

(a) The owner/operator must install and maintain such road to ensure a "mud free" gravel surface for at least Two Hundred Feet (200') of its intersection with all public and private roads.

(b) The owner/operator must construct and maintain a "tire cleaning surface" consisting of a minimum of One Hundred Feet (100') of #3 PennDOT approved stone having a depth of not less than Six Inches (6"), at all intersections with public roads during construction for drilling operations.

(c) No access road shall be installed with a surface slope greater than 20% without the approval of the Board of Supervisors.

(d) The owner/operator shall submit a Stormwater Management Plan providing for the regulation of surface water drainage consistent with the Jackson Township Stormwater Management Ordinance in effect at the time such road is constructed. Such Plan shall be reviewed and approved by the Township Engineer prior to the issuance of any permit hereunder.

(e) Any cross-pipes required to be installed under this Ordinance shall be no less than Twelve Inches (12") in diameter.

(f) Any "highside" Access Road shall have at least One (1) cross-pipe within Fifty Feet (50') of its intersection with any public or private road.

(g) If surface water from any access road is anticipated to be redirected off the property onto adjoining property, the owner and/or operator shall submit a deed of easement, release and right of entry agreement or other similar document or agreement, signed by the adjoining property owner(s) and owner and/or operator, in a recordable form, evidencing such owners' permission to discharge surface water onto their property. Such surface drainage should be consistent with PA Department of Environmental Resources.

5. Following the cessation of drilling operations on the property and the abandonment of any well or well site, the owner and/or well operator shall within 60 days, remove all access roads, re-grade and restore the surface to its natural preconstruction condition. The owner and/or operator may enter into a written agreement with the Surface Owner in possession at the time of abandonment to keep any access way in place in its then condition or to make other modifications to such access way that would leave all or portions of same in place. Upon presentation of such written agreement to the Board of Supervisors, the obligation of the owner and/or operator to remove the access road and restore the surface shall cease and any bond held by the Township as security for such

restoration shall be returned to the owner and/or operator.

6. Upon the approval of any Application for Drilling Operation Surface Disturbance Approval the owner and/or well operator shall post a bond with the Township, in a form approved by the Township Solicitor and in an amount acceptable to the Board of Supervisors, to cover the costs of removing the access way and the restoration of the surface of such abandoned access way. The amount of any bond posted shall be determined by the Township Engineer and be in an amount estimated to be sufficient to remove the access road constructed. The Township may adjust the amount of such bond on an annual basis in the event the Township Engineer determines that, through increases in removal and replacement costs, inflation and/or the passage of time, the amount of the bond is insufficient to fund the removal of such road and the restoration of the road surface. At any time after the well is in production and before same is abandoned, the owner and/or operator may enter a written agreement, in a form sufficient for recording with the Recorder of Deeds of Cambria County, to permit any access road to remain on the property after abandonment. Such agreement shall be presented to the Board of Supervisors and, if approved, upon receipt of a recorded copy of such agreement, any bond held by the Township shall be released.

7. The owner and/or well operator shall not unreasonably restrict or otherwise impede the Surface Owner's access over or across such any access way during the course of drilling operations.

8. Owner or operator shall install locking gates where an access road crosses or intersects with any public road entrance, fence line and/or property line. Such gate shall be of sufficient width to permit ingress and egress by vehicles, equipment and machinery of the owner or operator and Surface Owner. The owner or operator shall provide the Surface Owner with a key, combination or other means of opening such gate for ingress and egress over the property.

9. The drilling operations shall be conducted so as not to create unreasonable noise as prescribed by Jackson Township Zoning Ordinance No. _____, Section _____, and such operations are not to be conducted at such hours, in such manners as to create a public nuisance or unreasonable interference with the surface use or abutting contiguous and other lands.

B. TRANSMISSION LINES

1. All transmission lines from on operating gas well on the property shall be constructed in a straight line from the well site to the closet point or near a public right of

way within the Township and not cause undue hardship to the surface overview of daily operations. Thereafter, such transmission line or lines shall run within such public right of way to minimize the impact on developable surface area of the property. Where possible, all transmission lines shall be located within or as close as practicable to existing access ways, property lines and/or fence lines to minimize the impact of their location upon the surface of the property.

2. Where possible, the transmission lines from any second or subsequent wells on such property shall tie into existing transmission lines constructed for existing wells.

3. All transmission lines shall be constructed at a minimum depth of thirty-six inches (36") with a "warning ribbon" at a depth of eighteen inches (18") installed over same. Any and all plastic transmission lines shall be installed with a locator wire and backfilled with clean select fill or other appropriate materials designed to minimize the risk of cracking and/or leaks.

4. Following the abandonment of any transmission line or drilling operations on the property, the owner and/or well operator shall, within 60 days, remove all above-ground appurtenances (including valves and gate boxes) to line depth and provide the Township with notice that such transmission line has been abandoned.

5. Unless other methods are approved by the Commonwealth of Pennsylvania Department of Environmental Protection, any transmission line crossing a stream, pond or other water source shall be encased in concrete or a steel casing.

6. Unless otherwise regulated by the Commonwealth of Pennsylvania Department of Environmental Protection, any transmission line running beneath a public or private road servicing a residence shall have steel casing extending below the road surface to a distance of not less than ten feet (10') past the wearing surface of the road.

C. WATER TREATMENT FACILITIES

1. Any water treatment facility to treat water or any other waste product resulting from drilling operations shall be constructed as close as is reasonably practical to a public road or right of way to minimize its impact on the usable land of the Surface Owner.

2. Any treatment facility so constructed shall meet any and all requirements imposed by the Commonwealth of Pennsylvania Department of Environmental Protection for same.

3. At any time after the well is in production and before same is abandoned, the owner and/or operator may enter a written agreement, in a form sufficient for recording with the Recorder of Deeds of Cambria County, to permit such treatment facilities to remain on the property after abandonment. Such agreement shall be presented to the Board of Supervisors and, if approved, upon receipt of a recorded copy of such agreement, any bond held by the Township shall be released.

4. Upon the approval of any Application for Drilling Operation Surface Disturbance Approval the owner and/or well operator shall post a bond with the Township, in a form approved by the Township Solicitor and in an amount acceptable to the Board of Supervisors, to cover the costs of removing the treatment facility and the restoration of the surface of same. The amount of any bond posted shall be determined by the Township Engineer and be in an amount estimated to be sufficient to remove the treatment facility constructed. The Township may adjust the amount of such bond on an annual basis in the event the Township Engineer determines that, through increases in removal and replacement costs, inflation and/or the passage of time, the amount of the bond is insufficient to fund the removal of such facility and the restoration of the surface of same.

D. WELL HEADS

1. Well Heads shall be constructed in accordance with those requirements and regulations imposed by the Oil and Gas Act in effect at the time of construction and the Commonwealth of Pennsylvania Department of Environmental Protection.

2. Following the cessation of drilling operations all well heads shall be immediately called in accordance with those requirements and regulations imposed by the Oil and Gas Act in effect at the time of construction and the Commonwealth of Pennsylvania Department of Environmental Protection and all above ground machinery immediately removed.

E. SURFACE AND GROUND WATER

1. Upon receipt of a written complaint from the Surface Owner that the quantity of the water supply for the property has been affected by the drilling operations thereupon, the Township shall report same to the owner and/or well operator. Within ten (10) days of receipt of written notice of such report, the owner and/or operator shall perform a well recovery rate (flow) test for affected water wells or developed springs on the property and shall submit the results of same to the Township and Surface Owner. The Township shall immediately forward a copy of the original flow test results submitted as part of the Permit

Application referenced above, together with the post-complaint flow test results to the Commonwealth of Pennsylvania Department of Environmental Protection for disposition pursuant to §601.208 of the Oil and Gas Act (58 P.S. §601.208), or its successor Section and any regulations associated with same. Nothing in this paragraph shall be deemed or construed to limit the ability of any affected Surface Owner from making a complaint directed by the DEP or pursuing actions through that Agency.

2. In the event the DEP takes or requires the owner and/or operator to take remedial action to correct deficiencies in the water supply on the property, or private remedial measures to correct deficiencies in the quality or quantity of the water supply on the property have occurred, the Township may declare the drilling operations on the property to be a “public nuisance” pursuant to 58 P.S. §601.502, or any successor Section, revoke or suspend any permit issued hereunder and pursue its right to restrain such conditions pursuant to 58 P.S. §601.504, or any successor Section.

3. Nothing in this Section shall preclude the Surface Owner from performing independent testing or pursuing any private remedies, at law or in equity, through the Court of Common Pleas of Cambria County or otherwise, for injunctive relief or money damages resulting from decreases in well recovery rates or contamination of ground or surface waters, a rising or otherwise resulting from drilling operations, notwithstanding the requirements of this Section.

4. Upon receipt of notice that a flow test or water quality test has given rise to corrective action taken by the DEP, or private remedial measures to correct deficiencies in the quality or quantity of the water supply on the property have occurred, the Township shall send notice to the owner and/or operator to correct those conditions giving rise to the corrective action and/or remedial measures referenced herein. If the owner and/or operator fail to correct such conditions within thirty (30) days of the date of the Notice, the owner's/operator's permit shall be suspended and/or revoked and the Township may take action to restrain the continuation of such conditions as referenced in Paragraph IV.E. 4 herein.

SECTION V: AGREEMENTS BETWEEN SURFACE OWNERS AND WELL OPERATORS

1. As part of the Application for Drilling Operation Surface Disturbance Approval, the owner and/or the well operator and surface owner may enter into and submit a tentative Agreement to the Board of Supervisors for consideration, concerning the location of transmission lines, access ways, surface/site restoration and/or the construction

of those treatment facilities referenced above as part of the permit approval process. Any such Agreement shall be in writing and be signed by the surface owner/lesser, well operator or their appropriate representatives and all surface owners, or person or entities including lessee's who have a lawful interest in the property, of the property subject to the drilling operation in a recordable form.

2. In such Agreement, the parties may reach tentative agreements or understandings, subject to approval by the Board of Supervisors, concerning the location of transmission lines, access ways, surface/site restoration, the construction of treatment facilities referenced above and the removal or non-removal of same. Any such Agreement shall be submitted along with the Application for consideration.

3. If a submission of an Agreement between the owner, well operator and surface right owner containing provisions for the construction, location, removal and/or restoration of any transmission line, access road or treatment facility referenced herein is in conflict with the requirements of this Ordinance, then a request for a variance from the terms of such Ordinance must be submitted.

4. Within sixty (60) days of receipt of any such Agreement, the Board of Supervisors of Jackson Township shall conduct a public hearing on such request, subject to public notice pursuant to the terms of the Pennsylvania Municipalities Planning Code. Following such public hearing, the Board of Supervisors may accept or reject all or any part of such Agreement and grant a variance from the terms of this Ordinance consistent with same. The decision of the Board of Supervisors shall be in writing and transmitted to the parties to such Agreement within forty-five (45) days of the public hearing. The failure of the Board of Supervisors to conduct such hearing within sixty (60) days of the date of receipt of such Agreement or to issue a written decision within forty-five days following same, shall result in a deemed decision in favor of the Applicant(s)/Parties to such agreement and the terms of such Agreement shall be "deemed approved" in their entirety. No Agreement between the owner, well operator and surface owner, regardless of its approval by the Board of Supervisors, shall contain provisions contrary to the Oil and Gas Act referenced above or any other law of the Commonwealth of Pennsylvania regulating drilling operations on the property.

5. Action upon any Agreement between the Surface Owner and owner and/or operator which alters the terms of this Ordinance with respect to drilling operation surface disturbance activities conducted on any Site, shall be taken by the Board of Supervisors by Resolution, duly adopted at a public meeting. Such Resolution shall have affixed to it the final site development plan submitted by the owner and/or well operator referenced above and shall contain any other reasonable conditions imposed by the Board of Supervisors relating to such drilling operations. Such Resolution shall be recorded with the

Office of the Recorder of Deeds of Cambria County at the cost of the Surface Owner and indexed under the name of the Surface Owner. No Permit shall be issued under this Ordinance until the Township receives a copy of the recorded Resolution.

6. Any party aggrieved by the determination of the Board of Supervisors made pursuant to this Ordinance may appeal such determination to the Court of Common Pleas of Cambria County, Pennsylvania, pursuant to the terms of the Pennsylvania Municipalities Planning Code.

SECTION VI: FEES

All Applications for Drilling Operation Surface Disturbance Approval shall be accompanied by a fee paid to the Township as set forth and established in the Fee Schedule attached hereto and approved hereby. This Fee Schedule may be modified by the Board of Supervisors hereafter by Resolution.

SECTION VII: ENFORCEMENT AND PENALTIES FOR VIOLATION

1. Any person, corporation, partnership or firm who fails to obtain a permit for drilling operations on any property pursuant to the terms of this Ordinance, or who otherwise fails to comply with any terms or conditions of this Ordinance shall be guilty of a Summary Offense and, upon conviction thereof before a District Justice having jurisdiction over same, shall be sentenced to pay a fine not less than \$500.00 nor more than \$1,000.00 per violation and, in lieu thereof, shall be sentenced to a term of imprisonment for the maximum period permitted by law for the punishment of summary offenses. Each day or portion thereof in which a violation is found to exist and each Section of the Ordinance which is found to be violated shall constitute a separate offense without the necessity of filing subsequent citations.

2. Nothing in this Ordinance shall be deemed or construed to limit the ability of the Township to enforce the terms of this Ordinance through an Action in Equity brought in the Court of Common Pleas of Cambria County, Pennsylvania, or furthermore, nothing in this Ordinance shall be deemed or construed to limit the ability to immediately initiate any action at law or in equity to enjoin drilling operations available to it under the aforesaid Oil and Gas Act when, in its discretion, the conditions on the property constitute an immediate threat to the public health, safety and well-being.

3. Any person, corporation, partnership, firm or other business entity aggrieved

by any term or condition contained in this Ordinance may request a variance from such appeal requesting a variance; the Board of Supervisors shall conduct a public hearing and issue a decision consistent with the procedures set forth in SECTION V.- 4 above. In Ordinance if strict compliance with the terms and conditions of same would result in unnecessary hardship to the Applicant. Although economic hardship may be considered by the Board of Supervisors as a factor in granting relief, such economic hardship shall not be the sole factor in determining whether relief is granted.

THIS ORDINANCE IS DULY ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF JACKSON, CAMBRIA COUNTY, PENNSYLVANIA, AT A DULY ADVERTISED PUBLIC MEETING HELD THE _____ DAY OF _____, 2006, AND SHALL TAKE EFFECT IN FIVE (5) DAYS.

**JACKSON TOWNSHIP
BOARD OF SUPERVISORS**

By: _____
David Bracken, Chairman

By: _____
Robert Stephens, Supervisor

ATTEST:

By: _____
Bruce Baker, Supervisor

David M. Hirko, Township Secretary
(Seal)

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