

**OFFICIAL
BOROUGH OF FRANKLIN PARK
ORDINANCE NO. 648-2018**

AN ORDINANCE OF THE BOROUGH OF FRANKLIN PARK, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING CHAPTER 212 IN THE CODE OF THE BOROUGH OF FRANKLIN PARK, “ZONING,” TO: (1) ADD AN OIL AND GAS RECOVERY DISTRICT OVERLAY TO THE ZONING ORDINANCE; (2) AMEND THE OFFICIAL ZONING MAP OF THE BOROUGH; AND (3) MAKE SUCH OTHER REVISIONS AND AMENDMENTS AS ARE INCIDENTAL TO AND NECESSITATED BY ADDING AN OIL AND GAS RECOVERY DISTRICT OVERLAY TO THE ZONING ORDINANCE.

WHEREAS, the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended, authorizes the Borough of Franklin Park (the “Borough”) to regulate zoning and land use in the Borough; and

WHEREAS, Chapter 212 in the Code of the Borough of Franklin Park, “Zoning,” as amended, (“Zoning Ordinance”) regulates zoning and land use in the Borough consistent with the Pennsylvania Municipalities Planning Code in order to maintain, preserve and protect the public health, safety and welfare; and

WHEREAS, the Borough Council desires to amend the Zoning Ordinance to: (i) add an oil and gas recovery district overlay to the zoning ordinance; (ii) update the Official Zoning Map of the Borough to include an oil and gas recovery district overlay; and (iii) make such other revisions and amendments to the zoning ordinance as are incidental to and necessitated by adding an oil and gas recovery district overlay to the zoning ordinance.

NOW THEREFORE BE IT ORDAINED AND ENACTED, by the Borough Council of the Borough of Franklin Park, Allegheny County, Pennsylvania, and it hereby is ordained and enacted by and with the authority of same that the Franklin Park Borough Zoning Ordinance, Chapter 212 of the Code of the Borough of Franklin Park, is hereby amended, as follows:

SECTION 1. Section 212-202, *Definitions*, of the Zoning Ordinance is amended by adding the following terms as defined terms therein:

BEST MANAGEMENT PRACTICES

Best management practices (BMPs) are state-of-the-art mitigation measures applied to oil and gas developments, oil and gas development facilities and oil and gas production to help ensure that energy development is conducted in a safe and environmentally responsible manner that protects air and water quality, landscapes and natural resources and public health.

COMPLETION OF THE WELL

The date sixty (60) days after the end date of drilling, re-drilling or reworking of the well site in which the well is properly equipped for the production of oil or gas.

COMPRESSOR

A device used alone or in series to raise the pressure of natural gas and/or by-products to create a pressure differential to move or compress a liquid, vapor or gas.

COMPRESSOR STATION

An oil and gas facility designed and constructed to compress natural gas, through the use of motors, that originates from an oil and gas well or collection of such wells and which operates as an upstream or midstream facility for delivery of oil and gas to a transmission pipeline, distribution pipeline, natural gas processing and/or treatment facility or underground storage field.

DRILLING

Any vertical or horizontal digging or boring of a new well or re-working of an existing well with the intention to explore, develop or produce oil, gas or other hydrocarbons or to inject gas, water or any other fluids or substances into the earth.

DRILLING AND STIMULATION EQUIPMENT

Every piece of apparatus, machinery or equipment used, erected or maintained in connection with oil and gas drilling, as well as the completion and stimulation/workover equipment utilized to complete the well, and all parts and appurtenances to such apparatus, machinery or equipment.

FLOWBACK WATER

The murky, salty water from fracking natural gas wells consisting of fracturing fluid which returns to the surface as well as produced water.

FRACTURE or FRACKING

The process of injecting water, customized fracking fluid, steam, or gas into a gas well under pressure to improve gas recovery.

FRESH WATER

Water obtained from a public or private potable water source of the Commonwealth such as a hydrant, stream, lake, water well, spring, water line or other source that has not been treated or utilized in commercial or industrial operations.

FRESH GROUNDWATER

Water in that portion of the generally recognized hydrologic cycle which occupies the pore spaces and fractures of saturated subsurface materials. Groundwater often supplies

wells and springs and is often withdrawn for domestic, agricultural, municipal, industrial and other beneficial uses.

GAS WELL

Any well drilled for the intent of extracting gas or other hydrocarbons from beneath the surface of the earth.

IMPOUNDMENT, FRESH WATER

A depression, excavation or facility situated in or upon the ground, whether natural or artificial and whether lined or unlined, used to store fresh water.

IMPOUNDMENT, WASTE WATER

A lined depression excavation pit or facility situated in or upon the ground, whether natural or artificial, used to store waste water fluid including but not limited to brine, fracturing fluid, produced water, recycled water, impaired water, flowback water, or any other fluid that does not satisfy the definition of “fresh water”.

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 and defined as follows: Gas is a fluid, combustible or noncombustible, which is produced in a natural state from the earth and maintains a gaseous or rarified state at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA or any manufactured gas, by-product gas or mixture of gases or natural gas liquids. Oil is defined as hydrocarbons in liquid form at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA, also referred to as petroleum.

OIL AND GAS DEVELOPMENT FACILITY or FACILITY

(1) 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.

(2) NATURAL GAS PROCESSING PLANT

A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow the 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.

OIL AND GAS DEVELOPMENT or DEVELOPMENT

A land development which includes well site preparation, well site construction, drilling, fracturing, and/or site restoration associated with an oil and gas well of any depth and related activities such as: (i) water and other fluid storage; (ii) gas reservoirs; (iii) impoundment and transportation used for such activities; (iv) the installation and use of all associated equipment, including tanks, meters, and other equipment and structures, whether permanent or temporary; (v) the site preparation, construction, installation, maintenance and repair of oil and gas pipelines, not regulated by the Pennsylvania Public Utility Commission or United States Department of Transportation, Office of Pipeline Safety, and associated equipment; and (vi) all other equipment and activities associated with the exploration for, production and recovery of and transportation of oil and gas, including structures defined as other support facilities or structures performing similar functions that operate as midstream facilities, but excluding natural gas compressor stations and natural gas processing plants.

OIL AND GAS PROPERTY

Any surface property for which the underlying oil and gas rights are (1) leased for development and/or (2) under the control of the operator.

OPERATOR

The person designated as operator on the permit application and, if a separate entity from the operator, the owner of the oil and gas development or facility which is the subject of the application.

PERENNIAL STREAM

A perennial stream is a stream that has continuous flow in parts of its stream bed all year round during years of normal rainfall.

PERMANENT FACILITY AREA

Shall consist of the area designated by the applicant on the approved plat detailing the outer boundary of the area where the wellhead and permanent above-ground equipment and structures associated with the production and operation of oil and gas wells and/or post-hydraulic fracturing are permitted.

PLAT

A map, drawing or print, which shall be stamped by a professional engineer or registered surveyor, accurately drawn to scale showing the proposed or existing location of a well or wells, well pad and permanent facility area. The plat must show protected structure setbacks.

PRIVATE WATER SUPPLY

Any water supply which is not provided by a water company and not delivered through water mains. The sources of the supply may be a well, borehole, spring, stream, river, lake or pond. The supply may serve just one property or several properties through a network of pipes.

PROTECTED STRUCTURE

Any leased or owner-occupied residence, leased or owner-occupied commercial business, school, religious institution or other public building that may be impacted by noise or other external impacts generated from activity associated with an oil and gas development and/or a natural gas compressor station or natural gas processing plant. This term shall not include: (1) any structure on which construction commenced after an operator filed an application for a conditional use pursuant to Article 1400; (2) any structure located on a property where the surface owner of the property has signed a waiver relieving the operator(s) from implementation of the requirements established in Article 1400 for the owner's benefit; and (3) any structure located on a property where the owner has signed an agreement granting surface rights to drill a well and/or to erect and maintain a natural gas compressor station or processing plant. In any waiver under (2) above, the surface owner must acknowledge that s/he has notified all residents on the property and that the operator is explicitly relieved from complying with the regulations applicable to the protected structure. The waiver must be notarized and approved by the municipal solicitor.

PUBLIC RECREATION AREA

An area of land owned and maintained by the municipality, the North Allegheny School District, the Allegheny Land Trust, a non-public or private academic institution licensed by the Commonwealth of Pennsylvania, or a homeowners' association or similar neighborhood association and used for active parks, playgrounds, athletic facilities, athletic fields, swimming pools, trails for walking, biking, hiking and similar recreational uses.

RE-DRILL

Deepening or sidetrack/horizontal drilling of an existing well bore extending more than 150 feet from said well bore.

RE-WORK

Re-entry of an existing well within the existing bore hole or by deepening or sidetrack/horizontal operations (which do not extend more than 150 feet horizontally from the existing well bore) or replacement of well liners or casings.

STIMULATION

Any action taken with respect to a well that is intended to stimulate or enhance the flow of oil and gas production.

UNCONVENTIONAL WELL

A bore hole drilled or being drilled for the purpose of or to be used for the production of natural gas from a geological shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval where natural gas generally cannot be produced at economic flow rates or in economic volumes except by vertical or horizontal well bores stimulated by fracking or by using multilateral well bores or other techniques to expose more of the formation to the well bore.

WASTE WATER

Water which has been previously used for industrial, municipal, domestic or other purposes including those associated with fracturing, drilling flowback, and other drilling related activities.

WELL

A bore hole drilled or being drilled for the purpose of, or to be used for producing, extracting or injecting any gas, petroleum or other liquid related to oil or gas production or storage, including brine disposal, but excluding bore holes drilled to produce potable water to be used as such.

WELLBORE

The hole or shaft that is bored, drilled or driven to aid in the exploration and recovery of natural resources including oil and gas.

WELLHEAD

The component at the surface of an oil or gas well that provides the structural and pressure-containing interface for the drilling and production equipment. The wellhead is established after the completion of the hydraulic fracturing and is often referred to as the “Christmas Tree” within the oil and gas industry.

WELL PAD or WELL SITE

Shall consist of the area designated on the approved plat that includes the area accommodating all structures and equipment associated with or incidental to construction, drilling, fracturing and resource recovery prior to the establishment of the permanent facility area, specifically excluding access roads.

SECTION 2. The Franklin Park Borough Zoning Ordinance is hereby amended by adding the following as Chapter 212, Article 1400:

Chapter 212. Zoning

Article 1400. Oil and Gas Recovery District Overlay

§212-1401. Purpose.

The Oil and Gas Recovery District Overlay has been established to protect public health, safety and welfare by limiting the exploration and production of oil and natural gas and related activities to a designated area within the municipality, as indicated on the Zoning Map. The location of the Oil and Gas Recovery District Overlay has been chosen due to the relatively low density of residents and structures in that geographic area of the municipality. The intent of the overlay is: (i) to protect the character of the community; (ii) to provide for the health, safety and welfare of the residents and their property in the municipality by restricting the exploration and production of oil and natural gas and related activities to an area within the municipality where oil and gas operations will have the least overall adverse impact on residents, traffic, infrastructure and the environment; (iii) to provide for the procedures for the issuance of zoning permits with respect to the exploration and production of oil and natural gas and related activities; and (iv) to further the municipality's interest in the orderly development and use of land in a manner consistent with local demographic and land use concerns. This Article 1400 provides for the surface location of oil and gas development and facilities and regulation corresponding to such surface activities, but does not regulate the location of subsurface drilling, exploration and production activities.

§212-1402. General Provisions.

The provisions of this Article 1400 shall supplement the provisions of the underlying zoning district.

§212-1403. Use Regulations.

- A. Permitted uses: any use permitted in §212-404 within the underlying zoning district.
- B. Conditional uses per the standards of this article:
 - (1) Any use listed as a conditional use in §212-404 within the underlying zoning district.
 - (2) Oil and gas development.
 - (3) Oil and gas development facility.
- C. Accessory uses: Any accessory use listed as permitted or conditional in the underlying zoning district in §212-404, Table 4-7, *Table of Accessory Use Regulations*.

§212-1404. General conditional use approval standards.

In addition to the performance standards and other requirements for approval of conditional uses contained in §212-1405, the general conditional use standards contained in Article 1800 shall be applicable.

§212-1405. Performance standards and other requirements for approval of conditional uses under Article 1400.

The applicant shall demonstrate compliance with the following performance standards and other requirements that are associated with the development site and its impacts upon the municipality and neighboring property owners:

A. Area, yard, height and setback requirements for oil and gas developments and oil and gas facilities. All area, yard, height and setback requirements of the underlying zoning district as well as setback requirements established by the Commonwealth of Pennsylvania or the United States Government shall apply to oil and gas developments and oil and gas facilities, except as otherwise set forth as follows:

(1) The nearest portion of the outer boundary of any proposed oil and gas development, oil and gas development facility or permanent facility area, as depicted on the approved plat, shall be no closer than one thousand one hundred feet (1,100') from the nearest protected structure. Notwithstanding the foregoing, the outer boundary of any proposed oil and gas development, oil and gas development facility or permanent facility area shall be no closer than two thousand feet (2,000') from any adult care facility, day-care, hospital, retirement community for the elderly or school.

(2) Notwithstanding anything to the contrary contained in this ordinance or in any other applicable rules, laws or regulations, no permanent facility area, oil and gas development, oil and gas development facility, or any portion of the foregoing shall be located less than five hundred feet (500') from the lot line of a public recreation area.

(3) Notwithstanding anything to the contrary contained in this ordinance or in any other applicable rules, laws or regulations, no temporary structures, equipment, materials or activities related to the use, development, construction, maintenance or modification of an oil and gas development or an oil and gas development facility approved pursuant to these regulations, or any portion thereof, including but not limited to an access road, shall be located less than three hundred fifty feet (350') from a protected structure.

(4) The minimum lot size for oil and gas developments shall be ten (10) acres. The minimum lot size for oil and gas development facilities shall be ten (10) acres. Multiple adjoining, contiguous properties may be combined to achieve the minimum acreage required and, notwithstanding anything to the contrary contained in Section 212-107, a zoning lot in the Oil and Gas Recovery District Overlay may include a principal use consistent with the underlying zoning district as well as an additional principal use by condition in accordance with this Article 1400.

(5) Notwithstanding anything to the contrary contained in the Zoning Ordinance, the front, rear and side yard requirements for oil and gas developments shall be a minimum of one hundred feet (100') and the front, rear and side yard requirements for oil and gas development facilities shall be a minimum of two hundred fifty feet (250') from the property line. Minimum setbacks shall be measured from the nearest portion of the outer boundary of any proposed well pad, as depicted on the approved plat, and from the nearest portion of the outer boundary of any proposed oil and gas development facility structure, as depicted on the approved plat, as applicable.

(6) As part of the conditional use review process, the municipality reserves the right to modify any setback based on physical characteristics of the site and evidence received at a hearing necessitating any change in the minimum setback, including but not limited to topography, wind conditions, air modeling studies, the proximity of woodlands to the site, the proximity of wetlands to the site, the location of perennial streams or other watercourses, hydrogeological studies and noise concerns.

B. Traffic Controls.

(1) The applicant will show the proposed routes of all trucks to be utilized for hauling any and all material, liquids, equipment or other items to and from the development or facility. All proposed routes must be designed to minimize the impact on streets within the municipality. The municipality reserves the right to designate alternate routes in the event that the applicant's proposed routes are deemed inadequate, unsafe or overly disruptive to normal vehicular traffic by the municipal engineer.

(2) Prior to the commencement of any activity at the development or facility, the operator shall enter into a municipal roadway maintenance and repair agreement with the municipality, in a form acceptable to the municipality, regarding maintenance, repair and bonding of municipal roads that are to be used by vehicles for development or facility activities. The municipal roadway maintenance and repair agreement will identify the responsibilities of the applicant to prepare, maintain, and repair municipal roads before, during and immediately after all operations associated with the development or facility. The operator shall take all necessary corrective action and measures as directed by the municipality pursuant to the agreement to ensure the roadways are repaired and maintained during and at the conclusion of all development or facility activities. The agreement may provide for bond to be posted in excess of otherwise applicable PennDOT limits when the municipal engineer has reasonably estimated the cost of repair will exceed PennDOT limits.

(3) The operator shall maintain public roads free of dirt, mud and debris resulting from activities at the development or facility and shall undertake such activities as road sweeping and tire/wheel well/undercarriage washing as needed. The 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 allowed, during periods of anticipated heavy or frequent truck traffic associated with the

development or facility, the operator will provide flagmen to ensure the public safety and include adequate signs and/or other warning measures for truck traffic and vehicular traffic.

(4) There will be no staging of trucks or equipment on local roads. The normal flow of traffic on the local roads shall not be impeded by vehicles accessing or waiting to access the site.

(5) The access driveway off the public road to the development or facility site shall be gated at the entrance to prevent illegal access into the site. The site assigned address shall be clearly marked.

(6) Beginning with its intersection with a public street, the access driveway to the development or facility shall be paved with an impervious material for the first 50 feet, at a minimum. The remainder of the access driveway shall be paved with materials designed to (i) minimize dust and particulate; (ii) minimize the runoff of water, sediment and other debris onto any public roadway and adjacent property; and (iii) allow the safe passage of emergency vehicles into the development or facility site.

(7) No idling of diesel powered motors or motor vehicles shall be permitted at a development site outside of the well pad.

C. Impoundments. Best management practices shall be utilized in connection with all impoundments. Impoundments shall not use surface aerators. Impoundments must comply with all state and federal laws in all respects, including, but not limited to leak detection and monitoring and bird netting requirements and, additionally, must comply with EPA 9090 or any regulation that supersedes it. All impoundments shall be secured with a temporary chain link fence which shall have a minimum thickness of eleven (11) gauge and shall be a minimum of six (6) feet in height with a secured gate. The fencing shall be in place until the impoundment is removed. Other than fresh water, no impoundment may be used to store any substance or material generated from any property other than the property on which the impoundment is located. The Borough reserves the right to require impoundments to be completely enclosed within a structure with solid walls and a roof and, where such enclosure is required, may also require air filtration systems to be installed in and/or on the enclosure.

D. Hours of operation. Except for emergency and governmental compliance activity or during fracking or drilling, hours of operation of an oil and gas development, including but not limited to any well site, are limited to Monday through Saturday, 7:00 a.m. to 9:00 p.m., federal holidays excepted. Deliveries and pickups incidental to the operation of an oil and gas development, including but not limited to any well site, are limited to Monday through Saturday, 7:00 a.m. to 9:00 p.m., federal holidays excepted. It is understood that oil and gas development facilities operate on a continuous basis, but construction of such facilities, as well as all deliveries and pickups incidental to such facilities, may only take place Monday through Saturday, 7:00 a.m. to 9:00 p.m., federal holidays excepted.

E. Notification. The operator of any development or facility shall notify the municipality's emergency management coordinator, zoning officer and municipal engineer in writing of the

operator's intention to startup any development or facility no less than 90 days prior to the startup of the development or facility. The operator of any development or facility shall notify the municipality's emergency management coordinator, zoning officer and municipal engineer in writing of the operator's intention to abandon or shutdown any development or facility within a reasonable time prior to the abandonment or shutdown of the development or facility.

F. Visual. The oil and gas development or facility shall be located, designed and constructed to: (i) minimize the removal of trees and shrubs; (ii) protect all natural resources; and (iii) minimize the amount of surface disturbance. The operator shall not clear brush or trees by way of burning and shall chip, grind or remove all tree stumps from properties it clears for development purposes. The location and design of structures and site improvements shall be integrated with the natural color, form and topography of the surrounding area.

G. Emergency Management and Security.

(1) Upon request of the municipality, the operator shall, prior to commencing oil and gas development or facility operations, make available with at least 30 days' notice, at the applicant's/operator's sole cost and expense, one appropriate group training program for emergency responders and municipal code enforcement personnel. Such training shall be made available at least annually during any year that drilling activities take place at the oil and gas development or during any year in which a facility is operational and shall, at a minimum, include an opportunity for municipal emergency service providers to visit the site for purposes of being oriented to the location, equipment, materials used and layout of the site. Training should cover each phase of the development from site work to well completion or completion of the facility, as applicable. If additional wells are drilled at a site, the municipality will determine in its discretion whether additional training is required.

(2) The operator shall provide to the chief officers of the municipality's emergency service providers and to the borough manager, appropriate maps, material data safety sheets and emergency plan documents, including a copy of its current Preparedness, Prevention and Contingency Plan as defined by the Pennsylvania Department of Environmental Protection. This information shall be kept up to date at all times while the oil and gas development or facility is active.

(3) The operator shall provide 24/7 emergency contact information, including a supervisor's name and phone number, to the chief officer of all municipal emergency service providers and to the borough manager and shall also maintain signage at the site including such emergency contact information.

(4) The operator shall provide at least one (1) on-site security guard 24/7 when a drilling rig or hydraulic fracturing equipment is on the site.

(5) The operator shall install warning signs at the site providing notice of the potential dangers of the site. The warning signs shall include contact information in case of an emergency.

H. Fencing. In addition to the fencing requirements set forth in §212-1405(C) and notwithstanding anything to the contrary contained in Article 2100, the operator shall securely install fencing at least six feet (6') high around drilling, fracking and hydraulic equipment. Upon completion of drilling or re-drilling or upon completion of construction of a facility, security fencing consisting of a permanent, galvanized chain-link fence shall be promptly installed at all well pads to secure wellheads, storage tanks, separation facilities, water or liquid impoundment areas, compressor stations and other mechanical and production equipment and structures, as applicable, on the site. Fencing shall have lockable gates at every access point which shall be kept locked except when being used for access. Provision shall be made to provide the municipality's emergency responders with access to all locked areas at all times.

I. Screening and Buffering. Oil and gas developments and oil and gas development facilities are subject to Article 2000, *Buffering and Landscaping*, of the Zoning Ordinance. Buffer yard "Type E", as set forth in Table 20-4, *Detailed Buffer Yard Requirements*, shall apply to oil and gas developments and oil and gas development facilities. The municipality may require such other or additional buffering and screening as it deems necessary and appropriate.

J. Noise. Oil and gas developments and oil and gas development facilities are subject to §212-2106, *Noise*. In addition to compliance with §212-2106, as part of its conditional use application, the operator shall submit both a noise study and analysis and a noise management and mitigation plan acceptable to the municipality and conducted and prepared by an independent consultant with proven expertise in noise analysis, management and mitigation. Among other things, the noise study and analysis shall provide the existing ambient noise levels of "A" scale noise (high frequency noise) and "C" scale noise (low frequency noise) taken during summer and winter months, during daytime and overnight hours, during varying atmospheric and weather conditions and taken on weekdays and weekends and measured at points representing each cardinal direction on the property line of the development or facility. Documentation certifying the accuracy and reliability of the measured ambient noise levels shall also be included. Additionally, the noise management and mitigation plan shall, at a minimum, include the following: (i) projected levels of "A" scale noise and "C" scale noise for each phase of the lifecycle of the development or facility (including, but not limited to construction, drilling, fracking, completion, operation and reclamation, as applicable) during summer and winter months, during daytime and overnight hours, during varying atmospheric and weather conditions and on weekdays and weekends, with such noise level projections being made for the same points along the property line of the development or facility used to establish the ambient noise levels; (ii) a comprehensive analysis detailing mitigation measures to be taken to control both "A" scale noise and "C" scale noise at the property line of the development or facility; (iii) projected levels of "A" scale and "C" scale noise, as required in (i) above, after mitigation measures are in place, including examples of situations in which such mitigation measures have been previously used and a detailed analysis of the effectiveness of such use; (iv) a plan for ongoing and vigilant noise monitoring to take place on a regular, routine basis during each phase of the lifecycle of the development or facility with reports of such monitoring to be provided to the municipality; (v) a continuous improvement plan for lowering, controlling and mitigating "A" scale and "C" scale noise levels at the development or facility; and (vi) a plan to timely and

acceptably respond to and address individual noise complaints. The operator shall reimburse the municipality for the cost of consultants deemed reasonably necessary by the municipality to establish and/or review the parameters of the noise study and analysis and the noise management and mitigation plan for the oil and gas development and/or facility. The noise study and analysis and the noise management and mitigation plan are subject to the approval of the municipality and the municipality reserves the right to impose additional noise control requirements as it deems necessary and appropriate.

K. Odors. Oil and gas developments and oil and gas development facilities are subject to §212-2101, *Emission of Offensive Odors*. In addition to compliance with §212-2101, the operator agrees that, upon complaint by the occupants of a nearby property of odors generated at the development or facility, the operator will meet with the municipality and the complainant or his/her representative within three (3) days of receipt of the complaint to establish a feasible and effective method of controlling any such odors. The operator will reimburse the municipality for the cost of consultants or other investigation needed to address odor complaints. For the purposes of this section, “nearby properties” shall be properties located within two thousand feet (2000’) of the development or facility.

L. Housing. No employees, subcontractors, agents or other persons shall be housed on the site of a development or facility.

M. Disposal. No on-site burial or other on-site disposal of drilling residuals, hydraulic fracturing chemicals or other residuals is permitted at a development or facility.

N. Emissions. Oil and gas developments and oil and gas development facilities are subject to §212-2104, *Air Pollutive Emissions*. In addition, containment and control of air pollutive emissions, particulate and otherwise, shall be in compliance with all local, state and federal laws, rules, codes and regulations, including, but not limited to all Allegheny County Health Department regulations and the operator shall operate and maintain a vapor recovery unit or vapor destruction unit, or other available and feasible means to eliminate vapors emitted from any condensation tanks and/or enclosed impoundments located at an oil and gas development or facility.

O. Lighting. Oil and gas developments and oil and gas development facilities are subject to §212-2105, *Lighting Projecting Beyond Lot Lines*. In addition, no lighting used at an oil and gas development or facility shall be positioned or directed in such a manner so that it shines directly upon public roads, adjacent property or other property within the vicinity of the development or facility. Site lighting shall be directed downward and shielded so as to avoid glare on public roads and adjacent properties. After hours of operation or when the site has been fully developed or reclaimed, lighting shall be reduced to the minimum required for safety and security purposes.

P. Vibrations. Oil and gas developments and oil and gas development facilities are subject to §212-2109, *Vibrations*. In addition to compliance with §212-2109, as part of its conditional use application, the operator shall submit a vibration study and analysis and a vibration management and mitigation plan acceptable to the municipality and prepared by an independent consultant with expertise in vibration analysis, management and mitigation. At a minimum, the

vibration management and mitigation plan shall demonstrate that properties contiguous to the property on which the development or facility is located shall not be subject to disruptive vibrations during any phase of the development or facility lifecycle, including, but not limited to, construction, drilling, fracking, completion, operation and reclamation, as applicable. The operator shall reimburse the municipality for the cost of consultants deemed reasonably necessary by the municipality to advise the municipality with respect to the vibration study and analysis and the vibration management and mitigation plan. The vibration study and analysis and the vibration management and mitigation plan are subject to the approval of the municipality and the municipality reserves the right to impose additional vibration control requirements as it deems necessary and appropriate.

Q. Compliance with other laws, rules, regulations and ordinances. The oil and gas development and/or facility shall comply with all applicable permits and requirements of the Pennsylvania Department of Environmental Protection, the United States Environmental Protection Agency and any other governmental agency or authority having jurisdiction over its operations and with all federal, state and local laws, ordinances, rules and regulations promulgated to protect the environment or otherwise relating to environmental matters, including, but not limited to the Clean Air Act, 42 U.S.C. §7401, *et seq.*, the Clean Water Act, 33 U.S.C. §1251, *et seq.*, and the Allegheny County Health Department Air Pollution Control Rules and Regulations, Allegheny County Ordinance 16782, all as may be amended from time to time. A comprehensive list identifying any and all permits and approvals required by law with respect to the oil and gas development and/or facility shall be provided to the municipality with the conditional use application and shall be certified as true, correct and complete by a professional engineer. Additionally, a copy of all permit applications submitted by the applicant and/or owner and a copy of all permits and approvals issued to the applicant and/or owner with respect to the oil and gas development and/or facility shall be provided to the municipality with the conditional use application. To the extent that any required permits or approvals are not provided with the conditional use application, the applicant and/or owner shall provide the municipality with a written explanation for each missing permit and/or approval with its conditional use application. Any suspension or revocation of any permit or the application of any penalty against the applicant and/or owner of the development or facility shall be immediately reported to the municipality and shall constitute a violation of the zoning approval and may result in suspension of any zoning approval. The applicant shall provide certification that a bond is held by the Pennsylvania Department of Environmental Protection to ensure proper plugging when the well is classified as inactive by the Pennsylvania Department of Environmental Protection.

R. Environmental Rights Amendment. The applicant shall demonstrate that the proposed operations at the oil and gas development and/or facility will not violate the rights of the citizens of the Borough of Franklin Park to clean air and pure water as set forth in Article I, Section 27 of the Pennsylvania Constitution, known as the Environmental Rights Amendment. The applicant shall bear the initial burden of demonstrating that the proposed oil and gas development and/or facility operations will not adversely affect the health, safety or welfare of the citizens of the Borough of Franklin Park or any other citizen of the Commonwealth of Pennsylvania. The applicant shall submit reports from a qualified environmental engineer attesting that the proposed

location and operation will not negatively impact the environmental rights of the municipality's residents and will include, at a minimum, air modeling and hydrogeologic studies showing potential pathways that a spill or release of fluid or other release of chemicals or vapors from a development or facility may take and the potential impact on the residents of the municipality.

S. Costs. Applicant shall be responsible for any professional review fees or costs incurred by the municipality in connection with its review of the conditional use application or its component parts, which may be required to be escrowed at the municipality's sole election.

T. Notice of spills, etc. Notice of any spill, leak, malfunction and/or release creating an emergency situation at a development or facility that threatens to harm or causes actual harm to the health and safety of individuals and/or the environment shall be immediately reported by the operator to the chief officers of the municipality's emergency service providers and to the borough manager. Notice of any spill, leak, malfunction and/or release that does not create an emergency situation at a development facility and which does not threaten to harm or cause actual harm to the health and safety of individuals and/or the environment shall be reported within twelve (12) hours to the chief officers of the municipality's emergency service providers and to the borough manager. The operator shall immediately remove or cause to be removed all waste materials from any public or private property affected by such spill, leak, malfunction and/or release.

U. Parking. Adequate off street parking shall be required in accordance with §212-2202.

V. Maintenance. Oil and gas developments and oil and gas development facilities are subject to Chapter 159, *Property Maintenance*, of the Code of the Borough of Franklin Park. In addition, the municipality may place such other property maintenance conditions upon the applicant as it deems appropriate, including, but not limited to, maintenance and control of grass, weeds or other vegetation during active use of an oil and gas development or oil and gas development facility site and/or after abandonment thereof, even in the absence of any structure on such site.

W. Water Testing. In addition to any requirements of state or federal law, any operator of an unconventional well shall be responsible for testing all private water supplies located within three-thousand feet (3,000') of the surface location of the wellbore of any unconventional well as set forth more particularly below. All water testing required in accordance with this section shall be performed at the sole cost and expense of the operator and shall be performed by an independent state-certified water testing laboratory agreed upon by the Borough. The purpose of the water testing is to determine the baseline quality of private water supplies in the vicinity of an unconventional well site and to evaluate the resultant changes that may occur or have an impact on the private water supply. The operator shall adhere to the following in connection with the testing of private water supplies:

(1) A map showing the location of all private water supplies located within three-thousand feet (3,000') of the surface location of the wellbore of any proposed unconventional well shall be submitted to the Borough as part of the conditional use application.

(2) A list of all landowners with private water supplies located within three-thousand feet (3,000') of the surface location of the wellbore of any proposed unconventional well and mailing addresses for each such landowner shall be submitted to the Borough as part of the conditional use application.

(3) Pre-drill water testing results for all private water supplies located within three-thousand feet (3,000') of the surface location of the wellbore of any proposed unconventional well shall be submitted to the Borough as part of the conditional use application. If a landowner refuses to allow the operator access to the landowner's property to conduct testing of such landowner's private water supply, the operator shall provide the Borough with written evidence of such refusal in accordance with PA Code Title 25, Chapter 78a, §78a.52(f). The independent water testing laboratory shall be directed by the operator to provide all landowners consenting to such water testing with the test results for their respective private water supply as those results become available. As part of the conditional use application, the operator shall submit written confirmation, certified by an officer of the operator, that each landowner consenting to the water testing was provided with the test results for their respective private water supply.

(4) The operator of an unconventional well shall test all private water supplies located within three-thousand feet (3,000') of the surface location of any wellbore of an unconventional well every six (6) months, at a minimum, as follows: (i) from the commencement of drilling of any unconventional well to the date that is eighteen (18) months following completion of the well; (ii) from the commencement of any alteration to an unconventional well which changes the physical characteristics of the wellbore, including stimulation, re-work or removing, repairing or changing the casing, to the date that is eighteen months following the completion of the well alteration or the completion of the well, whichever is later; and (iii) from the commencement of any re-drill of an unconventional well, to the date that is eighteen (18) months following the completion of the re-drill or the completion of the well, whichever is later. If a landowner refuses to allow the operator access to the landowner's property to conduct testing of such landowner's private water supply, the operator shall provide the Borough with written evidence of such refusal in accordance with PA Code Title 25, Chapter 78a, §78a.52(f). The independent water testing laboratory shall be directed by the operator to provide all landowners consenting to such water testing with the test results for their respective private water supply within ten (10) days of the certification of the results by the independent water testing laboratory. Within fifteen (15) days of the certification of the water testing results, the operator shall submit written confirmation to the Borough, certified by an officer of the operator, that each landowner consenting to the water testing was provided with the test results for their respective private water supply.

(5) Prior to drilling an unconventional well, the operator shall drill a test water well outside of the limits of the proposed well pad but no more than 750 feet from the proposed wellbore to a depth that intersects all known or viable aquifers for the purposes of obtaining a baseline assessment of water quality in the vicinity of the proposed well site. The test water well shall be located such that it is part of the hydrologic system of the drill site. Pre-drill water testing shall be conducted on this test water well and the results of this pre-drill testing shall be

provided to the Borough as part of the conditional use application. The operator of an unconventional well shall test the test water well every six (6) months, at a minimum, as follows: (i) from the commencement of drilling of any unconventional well to the date that is eighteen (18) months following completion of the well; (ii) from the commencement of any alteration to an unconventional well which changes the physical characteristics of the wellbore, including stimulation, re-work or removing, repairing or changing the casing, to the date that is eighteen months following the completion of the well alteration or the completion of the well, whichever is later; and (iii) from the commencement of any re-drill of an unconventional well, to the date that is eighteen (18) months following the completion of the re-drill or the completion of the well, whichever is later. The operator shall provide the results of such water testing to the Borough within ten (10) days of the certification of the water testing results by the independent water testing laboratory.

(6) The parameters to be tested for by the independent water testing laboratory include water temperature, pH, specific conductivity, total dissolved solids, turbidity, oil/grease/bromide, hardness, residue filterable, residue non-filterable, volatile organic compounds, detergent (MBAs), total organic carbon, major ions (chloride, fluoride, sulfate, nitrate, silica, calcium, sodium, potassium, magnesium), trace elements (aluminum, arsenic, barium, boron, iron, manganese, selenium, uranium, iodine), radiochemical (gross alpha/gross beta radioactivity, radium, radon, in addition to uranium), organic constituents (benzene, toluene, ethylbenzene, xylenes (BTEX), methane, methyl tertiary butyl ether (MTBE), ethane, propane, total petroleum hydrocarbons), heavy metals (cadmium, chromium, lead, mercury, strontium, vanadium, zinc), compounds (formaldehyde, hydrofluoric acid, nitrogen oxides, ethylene glycol, acetone), and microbes (total coliform/E.Coli). The foregoing list of parameters is not exhaustive and the Borough reserves the right to add additional parameters.

X. No flares. Wells shall not be flared at any time.

Y. Additional provisions specific to oil and gas development facilities. The following provisions shall apply specifically to oil and gas development facilities only:

(1) All oil and gas development facilities shall be completely enclosed in a building which: (a) shall be constructed such that the architectural character complements the existing character of the area; (b) shall employ architectural features such as sloped roofs, stone and brick accents, etc.; and (c) shall employ sound proof type walls which enclose all equipment associated with the facility.

(2) The operator will evaluate the use of electric motors rather than internal combustion engines. If electric motors are not deemed feasible and the use of internal combustion engines is approved by the municipality, any exhaust from any internal combustion engine or compressor used in connection with the facility shall not be discharged into the open air unless it is equipped with an exhaust muffler or an exhaust box which shall be constructed of non-combustible materials and shall be installed in a manner in which it suppresses noise and disruptive vibrations.

(3) The operator shall provide an opportunity for the fire department to inspect all oil and gas development facilities prior to operation. During active operation of a facility, municipal staff and municipal consultants shall be given access to the facility at reasonable times to determine continuing compliance with a conditional use approval.

Z. Additional Conditions. The municipality reserves the right to impose such additional conditions as it deems necessary to protect the public health, safety and welfare of its residents and in order to address any unique characteristics of a particular site.

§212-1406. Boundaries of Oil and Gas Recovery District Overlay.

The boundaries of the Oil and Gas Recovery District Overlay are so indicated on the Official Zoning Map of Franklin Park Borough.

SECTION 3. Section 212-302, *Classes of Districts*, of the Zoning Ordinance is amended in the following respects: “Oil and Gas Recovery District Overlay” shall be added to §212-302(C), Overlays.

SECTION 4. Section 212-402, *Manner of Indicating Whether Uses are Permitted*, of the Zoning Ordinance is amended by adding a paragraph “D” which shall state as follows: “D. Uses which have been added as conditional uses in the Transition Overlay and the Oil and Gas Recovery District Overlay are set forth in §212-1300 and §212-1400, respectively, and are not otherwise expressly set forth in the Tables of Use Regulations referenced in §212-404 and included as an attachment to Chapter 212.”

SECTION 5. The *Tables of Use Regulations* attached to the Zoning Ordinance as “212 Attachment 1” are amended by adding the following language immediately after the parenthetical note on the first page of the *Tables of Use Regulations*: “(Note: Uses which have been added as conditional uses in the Transition Overlay and the Oil and Gas Recovery District Overlay are set forth in Section 212, Article 1300 and Section 212, Article 1400, respectively, and are not otherwise expressly set forth in this attachment. Please reference Articles 1300 and 1400 for use information related to the overlay districts.)”

SECTION 6. The Zoning Map referenced in Section 212-303 is hereby amended and restated in its entirety and is replaced by the Franklin Park Borough Zoning Map attached hereto as **Attachment 1.**

SECTION 7. Section 212-1505, *Riparian Buffers*, of the Zoning Ordinance is amended by adding the following language as §212-1505(D)(2)(g): “(g) Oil and gas developments and oil and gas development facilities.”

SECTION 8. Section 212-1802, *Application and Approval Procedure*, of the Zoning Ordinance is amended by removing §212-1802(B)(1) and restating §212-1802(B)(1) in its entirety as follows: “(1) All applicants for conditional use approval shall demonstrate compliance with the

general standards and criteria of this article; the applicable express standards and criteria of Article 1900, as applicable; the applicable performance standards of Article 1300, as applicable; the applicable performance standards and other requirements of Article 1400, as applicable; and the applicable lot and yard requirements of the zoning district (and overlay district, if applicable), in which the use is proposed.”

SECTION 9. Section 212-2101, *Emission of offensive odors*, of the Zoning Ordinance, is hereby amended and restated in its entirety as follows: “No use shall emit odorous gases or other odorous matter in such quantities as to be offensive at any point on or beyond its lot lines. The guide for determining such quantities of offensive odors shall be the fifty-percent response level of Table 1 (Odor Thresholds in Air) found in “Odor Threshold Determinations of 53 Odorant Chemicals” by Gregory Leonardos, David Kendall and Nancy Barnard published in the *Journal of the Air Pollution Control Association*, Volume 19, Number 2, February 1969.”

SECTION 10. INTERPRETATION AND SEVERABILITY

This ordinance is to be interpreted and applied so that it meets all federal and state constitutional and statutory requirements. This ordinance is to be interpreted and applied to impose zoning regulations identifying where oil and gas developments and oil and gas development facilities, as herein defined, are permitted by condition in the municipality and not to regulate technical aspects of oil and gas developments or facilities and matters ancillary thereto. The provisions of this ordinance are severable. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid, illegal, unenforceable or unconstitutional by any court or tribunal of competent jurisdiction, the remaining provisions shall remain in full force and effect. If any provision hereof is held to be pre-empted by the Oil and Gas Act or any other federal or state law, statute, rule or regulation, now in effect or becoming effective after the adoption of this ordinance, then such provision and all remaining provisions shall be applicable to the extent they are consistent with and not pre-empted by the Oil and Gas Act or any other federal or state law, statute, rule or regulation.

SECTION 11. REPEALER

Any ordinance or part of any ordinance conflicting with this ordinance is repealed to the extent of such conflict.

SECTION 12. EFFECTIVE DATE

This ordinance shall be effective from and after the date of its passage and approval.

ORDAINED AND ENACTED into law by the Borough Council of the Borough of Franklin Park, Allegheny County, Pennsylvania, at its meeting held on the ____ day of _____, 2019.

ATTEST:

BOROUGH OF FRANKLIN PARK

Secretary

By: _____
President

Approved by me this ____ day of _____, 2019

Mayor

ATTACHMENT 1

Franklin Park Borough Zoning Map