

# ORDINANCE NO. \_\_\_\_\_

## DAMASCUS TOWNSHIP WAYNE COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING THE DAMASCUS TOWNSHIP ZONING ORDINANCE OF AUGUST 4, 1997, AS AMENDED, TO ADD DEFINITIONS, AMEND THE SCHEDULE OF DISTRICT REGULATIONS FOR THE RURAL RESIDENTIAL DISTRICT AND THE INDUSTRIAL DISTRICT, AND ADD SECTION 432 - OIL AND GAS WELLS AND PADS.

BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Damascus Township, Wayne County, Pennsylvania, by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as the "Pennsylvania Municipalities Planning Code", as follows:

**The Damascus Township August 4, 1997, as amended, is hereby amended as follows:**

**ITEM 1: Add and amend definitions in Article II as follows:**

**Add:**

**Oil or Gas Well Pad** - The construction and grading of an area of ground for the purpose of the construction, drilling and operation of an exploratory or production gas or oil well including all areas used for parking, storage, structures or any other associated use.

**Oil or Gas Well** - A bore hole drilled or being drilled for the purpose of or to be used for exploring 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. The term *well* does not include a bore hole drilled or being drilled for the purpose of or to be used for systems of monitoring, producing or extracting gas from solid waste disposal facilities, as long as the wells are subject to the act of July 7, 1980 (P.L. 380, No. 97), known as the Solid Waste Management Act, and do not penetrate a workable coal seam.

**Amend:**

**Mineral Extraction** -The mining, removal or recovery by any means whatsoever (including, but not limited to, open excavations and quarries, and subsurface mining) of minerals as defined in this Article II and including the incidental screening, washing, crushing and grading of materials originating on the site. Mineral extraction shall not include:

- A. The salvage removal of already quarried stone from existing quarries or removal of stonewalls or other stone structures where no additional blasting, ripping or other mechanical operations are required.
- B. The extraction of minerals by a landowner for the landowner's noncommercial use from land owned or leased by the landowner.

- C. The extraction of sand, gravel, rock, stone, earth or fill from borrow pits for public road construction undertaken by a public entity or the extraction of minerals associated with a public construction contract.
- D. The handling, processing or storage of slag on the premises of a manufacturer as a part of the manufacturing process.
- E. The extraction, handling, processing or storing of minerals from a building construction excavation on the site of the construction if the minerals removed are incidental to the building construction excavation, regardless of the commercial value of the minerals. The minerals removed are incidental if the excavator demonstrates that:
  - 1. Extraction, handling, processing or storing are conducted concurrently with construction.
  - 2. The area mined is limited to the area necessary to construction.
  - 3. The construction is reasonably related to the use proposed for the site.
- F. Oil and gas wells which are a separate use and are regulated as *oil and gas wells and pads*.

**ITEM 2: Amend the following portion of the Schedule of District Regulations:**

Rural Residential District:

-Add *oil and gas wells and pads* as a conditional use.

Industrial District:

-Delete *quarries* from the list of conditional uses.

-Add *mineral extraction* as a conditional use.

-Add *oil and gas wells and pads* as a conditional use.

**ITEM 3: Amend the heading of Section 422 to read as follows:**

**422 Mineral Extraction and Mineral Processing**

(See Section 432 for Oil and Gas Wells.)

**ITEM 4: Add the following Section 432:**

**432 Oil and Gas Wells and Pads**

In addition to other applicable standards of Section 405 and this Ordinance, this Section 432 shall apply to oil and gas wells and pads. (Section 422 shall not apply.)

**432.1 Findings**

The Pennsylvania Municipalities Planning Code clearly recognizes mineral extraction, including oil and gas extraction, as a lawful use. Along with other community effects, such uses can have impacts on water supply sources and are governed by state statutes that specify replacement and restoration of affected water supplies. Planning Code Section 603(I) states that *zoning ordinances shall provide for the reasonable development of minerals in each municipality*. The Code definition of minerals is: *Any aggregate or mass of mineral matter, whether or no coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous*

*coal, coal refuse, peat and crude oil and natural gas.* The Code, at Section 603(b) allows zoning ordinances to regulate mineral extraction, but only to the extent that such uses are not regulated by the state Surface Mining Conservation and Reclamation Act, the Noncoal Surface Mining Conservation and Reclamation Act, and the Oil and Gas Act.

### **432.3 Conditional Use**

Oil and gas wells and pads are allowed as conditional uses (as governed by Section 608) in those zoning districts where enumerated by the Schedule of District Regulations.

#### **432.3 Applicability**

- A. Preemption - This Ordinance shall not regulate any aspect of any oil or gas well or pad that is specifically preempted by the Surface Mining Conservation and Reclamation Act, the Noncoal Surface Mining Conservation and Reclamation Act, and the Oil and Gas Act.
- B. Depth and Direction - This Ordinance shall not regulate the depth of any well, nor shall it regulate any horizontal drilling direction or length.
- C. Multiple Wells - Multiple wells shall be permitted on one (1) pad.

#### **432.4 Information Requirements**

The following information shall be provided to the Township for each well pad location upon application for conditional use approval. In cases where an application has been made for any required permit or approval, and such permit or approval has not been granted, a copy of the application shall be provided. The submission of all final approvals shall be a condition of approval of the conditional use application.

- A. Road Access - A copy of a Highway Occupancy Permit for access from a State Road or a Driveway Permit for access from a Township Road.
- B. 9-1-1 - Proof of assignment of a 9-1-1 address by Wayne County.
- C. Drilling Permit - A copy of the DEP Drilling Permit.
- D. E&S Plan - A copy of the Erosion and Sediment Control Plan submitted to DEP.
- E. PPC Plan - A copy of the Preparedness, Prevention and Contingency Plan (PPC Plan) as submitted to DEP and Emergency Contact Information for 24-hour contact (which information shall be updated upon any change of contacts during the pad and roadway construction, drilling operation, and extraction operation of each well within 48 hours of such change).

#### **432.5 Setbacks**

The following setbacks shall apply to all parts of a well pad:

- A. Property Lines and Roads - The minimum setback from adjoining properties and public road rights-of-way shall be one hundred (100) feet.
- B. RD and ND Districts - The minimum setback from the River District boundary and the Neighborhood Development District boundary shall be one hundred (100) feet.

**432.6 Conditions**

- A. General - If the Board of Supervisors determines that the standards in this Ordinance are not adequate to protect the public health, safety and welfare, the Board of Supervisors shall attach such other conditions deemed necessary provided the conditions do not include requirements which are preempted by state statute.
- B. Increased Setback - Based on consideration of adjoining uses, environmental and topographic features, the protection of community character, and the protection of the public health, safety and welfare, the Board of Supervisors may impose an increased well pad setback from property lines and/or zoning district boundaries.

**432.7 Permit**

Upon meeting all conditions included in sections **432.4, 432.5 and 432.6**, a zoning permit shall be issued.

**SEVERABILITY**

Should any section, subsection, clause, provision or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Board of Supervisors having adopted this Ordinance as if such invalid portions had not been included therein.

**EFFECTIVE DATE**

This Ordinance shall become effective immediately upon adoption.

**ENACTED AND ORDAINED** into law by the Board of Supervisors of Damascus Township, Wayne County, Pennsylvania, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Supervisors of the Township of Damascus

\_\_\_\_\_  
Jeffrey R. Dexter, Chairman

Attest: \_\_\_\_\_  
Karyle A. Woods, Secretary

\_\_\_\_\_  
Joseph Canfield, Vice Chairman

\_\_\_\_\_  
Charles Grady, Supervisor

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