

ORDINANCE NO.: 06-04
SPONSOR: MAYOR BOLLAS & DAVID STOCK
INTRODUCED: JULY 5, 2006

AN ORDINANCE TO ENSURE THE SAFE OPERATION OF OIL AND GAS WELLS WITHIN NEW FRANKLIN, AND DECLARING AN EMERGENCY.

WHEREAS, the State of Ohio has the primary responsibility for issuing oil and gas well drilling permits in Ohio; and

WHEREAS, it is the intention of New Franklin to supplement the State regulations to ensure that permitted oil and gas wells are operated safely within the municipality.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW FRANKLIN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE: INTENT.

It is the intent of City Council to ensure the safe operation of oil and gas wells within the Municipality. Toward that end, this ordinance has been adopted to supplement any State issued permits which authorize the drilling of an oil and gas well within the Municipality. The provisions of this ordinance are based upon local conditions which may not be known to the State at the time such drilling was authorized. It is further the intent of the City to exercise its local police authority, authorized under Article XVIII, Section 3 of the Ohio Constitution, to the fullest extent permitted by law, for the protection of the City's residents and all emergency personnel who may be called upon to respond to an incident at an oil and gas well.

SECTION TWO: INTERPRETATION.

If any provision of this ordinance is deemed to conflict with any constitutional general law of the State of Ohio, the general law shall prevail. In the event the general law of the State is silent as to any substantive regulation contained herein, the substantive regulation established by this ordinance shall be applicable.

SECTION THREE: MUNICIPAL REGULATIONS.

Any person who has a permit to drill for oil and gas within the City of New Franklin,

which has been issued by any Department of the State of Ohio ("Permit Holder"), shall adhere to the following regulations:

- a) A copy of the State issued permit shall be filed with the City's Zoning Department no later than four weeks before the commencement of any operations preparatory to drilling in the City. Upon receipt by the Zoning Department, a copy of such permit shall be delivered to all owners and/or occupants of all properties which adjoin the property where a well is to be drilled.
- b) With a copy of the permit, a letter shall be filed with the Zoning Department which identifies the owner(s) of the subject property where the well is to be drilled; by name and address, identifying all persons, including but not limited to the Permit Holder, who are responsible for the drilling and operation of the well. The identification shall include, at a minimum, names, addresses and work telephone numbers. Any contractors performing gas or oil well drilling work shall comply with the following:
 - 1) Being registered with the City.
 - 2) Obtaining a drilling permit from the City in the amount of five hundred dollars (\$500.00).
- c) Plans for all wells, tank batteries, all excavation work (including but not limited to boring pits) and all other site work shall be presented to the Zoning Department and the City Engineer not less than four weeks prior to the commencement of any drilling or other operations. These plans shall show the topography of the site and all vehicular access to and from the site, from any road or street.
- d) Plans showing all buildings on the subject premises, and all buildings within 500 feet of the well and tank sites, shall be provided.
- e) No well may be drilled, or tank batteries located, in any location where emergency vehicles (e.g. fire trucks and ambulances) cannot obtain reasonable access to the site.
- f) No well is allowed to be drilled within any distance of any structure

or facility (e.g. a playground) which, based upon the specific facts and circumstances surrounding such structure or facility, creates a threat to the health, safety and welfare of said structure or facilities or occupants or users thereof.

- g) Proof of insurance shall be filed with the Zoning Department and Law Director, prior to the commencement of drilling. The proof of insurance must establish that the Permit Holder is insured by a solvent insurer, licensed to do business in the State of Ohio, with limits of three million dollars (\$3,000,000.00) per occurrence for personal injury and property damage. The City shall be named as an additional insured on the policy.
- h) Emergency contact information for all persons engaged in drilling and operating the well shall be filed with the Zoning Department and Fire Chief, prior to the commencement of drilling. Such information shall be immediately updated upon any change of circumstances.
- i) Within ten days after drilling operations have been completed, the Permit Holder shall do all of the following:
 - 1) Remove all bore pits, and all well spoils from the subject property;
 - 2) Fill all bore pits with clean fill dirt, and restore the grade of the site to its previous elevation;
 - 3) Seed all disturbed sites with grass or other vegetative ground, and ensure such ground cover becomes established; and
 - 4) Notify the Zoning Department and City Engineer that the site has been restored pursuant to the terms of this section. The Zoning Department, City Engineer and any other professional needed by the City, shall inspect the site within 14 days of the notification.
- j) At all times relative to the drilling, operation and capping of the well, the well and all tank facilities shall be secured from public access by sufficient fencing and vegetation. The sufficiency of the fencing and vegetation shall be determined by the Zoning Department.
- k) Within ten days after the drilling operations have been completed, the Permit Holder shall plant sufficient vegetation which, in conjunction with any fencing and natural vegetation, shall effectively and

permanently screen all above-ground facilities from all neighbors and from all public and private rights-of-way while such facilities are on the subject premises. The Zoning Department, City Engineer and any other professional needed by the City shall determine the sufficiency of the screening and vegetation and may order the Permit Holder to install additional screening or plant more vegetation.

- l) The Permit Holder shall give the Zoning Department at least four weeks advance notice before commencing to drill.
- m) A cash bond of five thousand dollars (\$5,000.00) per well, shall be filed with the Zoning Department to ensure sufficient securing and screening of facilities, as provided herein, and to ensure the proper capping of the well, the removal of all equipment and the restoration of the site after the well is abandoned. The Municipality shall return the bond upon the restoration of the site after the well has been abandoned and all equipment has been removed.
- n) Notwithstanding any other provision of New Franklin Ordinances, drilling operations may occur 24 hours per day until the permitted depth is reached. This provision does not obviate the Permit Holder's obligation to ensure that adjacent residents are not inconvenienced or otherwise impacted by any nuisance, excessive noise or noxious fumes as further regulated in any New Franklin Ordinance.
- o) It shall be a violation of this section for a Permit Holder to violate the terms and conditions of any State issued permit.
- p) A deposit in the amount of two thousand five hundred dollars (\$2,500.00), per well, shall be filed with the City, to ensure payment of any fees which will be incurred by the City Engineer or any other professional the City determines it must engage. Upon completion of all involvement by the City Engineer (or other professional), the City shall return any funds which remain on deposit.
- q) The Zoning Department shall, within ten business days of receipt of the plans, pursuant to division (c) of this section, review said plans and immediately advise the permit holder if anything shown on the plans does not comply with the regulations set forth herein. In the event that any Permit Holder fails to comply with the regulations herein

promulgated, the administrative official responsible for the enforcement hereof (i.e. the Zoning Department or Fire Chief, as designated,) shall provide written notice to the owner of the property and the Permit Holder within 48 hours of the failure to comply. Such service shall be made to the addresses identified in division (b) of this section, and if no address has been provided to any address identified on the permit issued by the State of Ohio. The notice shall advise the owner and the Permit Holder that if they wish to appeal the decision of the administrative official, the time for appeal is five days after service of the notice.

SECTION FOUR: APPEAL.

The determination of any administrative official, in applying the regulations promulgated hereunder, which is adverse to the rights of any owner of property or any Permit Holder may be appealed to the City's Board of Zoning Appeals by filing a notice of appeal with the Zoning Department within five days of notification by the administrative official that the permit holder has not complied with the regulation. The appeal shall be heard at the next Board of Zoning Appeals meeting, but such further hearings may be held as required for the Board to resolve the appeal. The decision of the Board of Zoning Appeals shall be final within the City.

SECTION FIVE: SEVERABILITY.

In the event any provision of this ordinance is found to be unconstitutional or otherwise held to be invalid, the remainder of this ordinance shall remain in full force and effect.

SECTION SIX: PENALTY.

- a) Whoever violates the provisions of this ordinance shall be guilty of a misdemeanor of the first degree. A separate violation shall be deemed to occur on each day during or on which a violation or noncompliance occurs or continues.
- b) In lieu of or in addition to the prosecution of a violation of this chapter, and upon the authorization of the Mayor, the Law Director may institute an appropriate action or proceeding in a court or proper jurisdiction to prevent an unlawful condition, to restrain, correct or abate a violation, nuisance, or to require compliance with this ordinance other applicable laws, ordinances, rules or regulations.

SECTION SEVEN: OPEN MEETINGS


The City of New Franklin finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meetings of this Council and any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION EIGHT: EMERGENCY CLAUSE

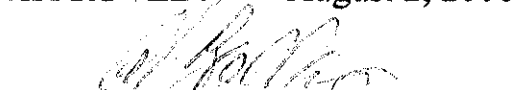
Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of New Franklin. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: August 2, 2006


Kathy A. Witwer, Clerk


Robert E. Lee, President, Pro-Tem

APPROVED: August 2, 2006


Al Bolas, Mayor

ENACTED EFFECTIVE: August 2, 2006

ON ROLL CALL:

Mr. Adamson, Absent.

Mr. Hess, Yes.

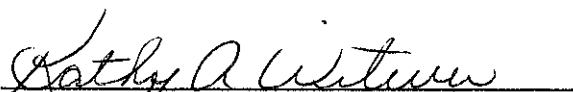
Mrs. Jones, Yes.

Mr. Lee, Yes.

Mr. Mobley, yes.

Mr. Stock, Yes.

Akron Legal News Publications on August 11, 2006 and August 18, 2006.


Kathy A. Witwer, Clerk