

SHARON TOWNSHIP
WASHTENAW COUNTY, MICHIGAN
OIL AND GAS ANCILLARY ACTIVITIES ORDINANCE

ORDINANCE NO. _____

This ordinance is codified and adopted pursuant to the powers granted to the Sharon Township by the Michigan Constitution Article VII; Michigan Township Ordinances Act, P.A. 246 of 1945, as amended; and the the Michigan General Law Township Act, Revised Statutes of 1846, R.S. of 1846 (MCL 41 *et seq.*), to protect the health, safety and welfare of the public from the known adverse secondary impacts of oil and gas activities on the local community, nearby properties, and environmentally sensitive features of the community such as woodlands, wetlands, groundwater, drinking water, watercourses, floodways and floodplains. The provisions of this article have neither the purpose nor the effect of regulating or controlling the drilling, completion or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes or to regulate the issuance of permits for the location, drilling, completion, operation or abandonment of oil or gas wells; and acknowledges the jurisdiction and authority of the Supervisor of Wells over the administration and enforcement of the Natural Resources Environmental Protection Act (NREPA), Part 615, Public Act 451 of 1994, as amended, MCL 324.101 *et seq.* (herein after referee to as the “Act”), and matters relating to the prevention of waste and the conservation of oil and gas in this state. However, while the Supervisor of Wells has jurisdiction and control over persons and things necessary to enforce the NREPA and the prevention of waste and conservation of oil and gas, such grant of authority does not abrogate the power and authority of the Township under the Michigan Constitution and statutory authority to protect the public health, safety and welfare and to continue to regulate issues of local concern.

Section 1: Title

This ordinance shall be known and cited as the Sharon Township Oil and Gas Ancillary Activities Ordinance.

Section 2: Definitions

Ancillary activities means any supporting activity undertaken within an enterprise in order to create the conditions within which the principal or secondary activities can be carried out; ancillary activities generally produce services that are commonly found as inputs into almost any

kind of productive activity and the value of an individual ancillary activity's output is likely to be small compared with the other activities of the enterprise (e.g., the cleaning and maintenance of equipment and facilities, etc.) Ancillary activities as used in this Ordinance includes but is not limited to product and waste storage and transportation, and the use of public infrastructure, natural and cultural resources, and rights of way for oil and gas exploration and development supplemental to permitted activities under Part 615.

Applicant means an individual, firm, company, corporation or government authority created by statute, that seeks a certificate of compliance related to the activities regulated by this Ordinance.

Contaminated liquid includes, but is not limited to, any contaminated water, waste water, liquid industrial waste, crude oil/brine, chemical mixture with water or any other fluid or liquid.

Immediate means within one (1) hour of receipt of knowledge of a release or suspected release.

Oil and gas activities means acts involved in the exploration for, or development, production, storage, handling, transportation or handling of petroleum, natural gas or both and ancillary activities.

Operator means an individual that conducts and/or has control or authority over oil or gas exploration/development and/or ancillary activities on-site or off-site, and is the holder of a certificate of compliance.

Site means the location of an oil and/or natural gas drilling, exploration, development or production operation and surface facilities as defined by the Supervisor of Wells Act, P.A. 615 of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended and its administrative rules R324.61501 *et seq.*

Section 3: Findings

- (a) Sharon Township is a community with significant environmentally sensitive areas that is entirely reliant upon groundwater for drinking water supplies, located at the headwaters of Mill Creek and near the headwaters of the Raisin River, home to approximately sixty (60) lakes and ponds, and approximately two thousand seven hundred (2,700) acres of wetlands; and contains unique cultural and natural features such as woodlands, active farmland, wildlife habitats, trails, public parks and other environmentally sensitive areas.
- (b) The development of innovative methods of gas and oil exploration and extraction, such as directional drilling and high volume hydraulic fracturing, has resulted in oil and gas development activities appearing in areas that traditionally have not been areas subject to oil and gas activities, such as in close proximity to populated areas in Michigan Townships.
- (c) Residents in towns and cities across the nation and in Michigan have experienced the adverse secondary impacts of oil and gas activities where oil and gas development activities have occurred near or adjacent to residential property.
- (d) The adverse secondary impacts of gas and oil exploration and extraction experienced by residents living nearby or adjacent to the oil and gas development activities include but are not necessarily limited to obnoxious odors and lights; excessive noise; air, soil and water

contamination; contaminated drinking wells; excessive dust, traffic and debris; off pad soil erosion; local road deterioration; and wildlife habitat impacts, all adversely affecting the residential quality of life and natural resources of the community.

- (e) Based on recent experiences in Michigan Townships, it is recognized that state statutes and regulations do not adequately protect the health, safety and welfare of Township residents, local natural resources, and the community from the adverse secondary impacts of oil and gas ancillary activities, thereby necessitating local regulation of such impacts by Sharon Township under its police powers and zoning authority, where applicable.
- (f) The state Constitution and statutes authorize the Township to adopt local regulations to protect the public health, safety and welfare of its residents; to regulate activities that cause nuisances; to regulate activities of industries that impede upon others' quality of life, property values, and health, safety and welfare; and to protect and preserve natural resources of the community.
- (g) Federal, state and local laws impose a substantive duty on the Township pursuant to its police powers and authority to prevent or minimize the degradation of the air, water and local natural resources held in the public trust.
- (h) Convincing evidence of the adverse secondary impacts of oil and gas have been presented to the Township Board in public meetings, hearings, in articles, from experiences of neighboring communities, and studies, reports and court cases made available to the Township Board.
- (i) It is an established legal principal that a municipality may rely on studies, reports, and experiences and evidence generated by other communities of the adverse secondary impacts of certain establishments, so long as whatever evidence that the municipality relies upon is reasonably believed to be relevant to the problem that the municipality addresses. *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41.
- (j) The courts have recognized that an ordinance furthers a substantial government interest by regulating adverse secondary impacts of certain establishments. *City of L.A. v. Alameda Books, Inc.*, 535 U.S. 425.
- (k) Based on the foregoing, the Township Board finds:
 - (1) The documentation demonstrates that oil and gas exploration, extraction and development and ancillary activities are an industrial activity that is associated with a wide variety of adverse secondary impacts including, but not limited to:
 - a. Deterioration of the quiet use and enjoyment of surrounding residential homes and properties from:
 - 1. Industrial operations that run twenty-four (24) hours a day in residential areas;
 - 2. Obnoxious night-time light emitted off-site;
 - 3. Obnoxious hydrocarbon odors and/or hydrogen sulfide-bearing gases emitted off-site;

4. Obnoxious industrial noise emitted off-site;
 5. Excessive vibrations felt off-site;
 6. Ambient dust emitted off-site.
- b. Violation of legally required community master plans by forcing industrial conditions on agriculturally and residentially zoned and/or used areas;
 - c. Scattered debris on-site that does not meet site maintenance standards of the community;
 - d. Truck traffic impeding flow of traffic and endangering pedestrian, non-motorized travel within the community;
 - e. Excessive truck traffic resulting in significant damage to roads within the community;
 - f. Activities that disrupt wildlife and wildlife habitat;
 - g. Activities near public parks or public/private nature preserves that impact the natural ecosystem and quiet enjoyment of nature paths, trails and wildlife habitats;
 - h. Withdrawal of groundwater resulting in reducing the volume or amount of well water serving residential properties, and any and all copies of the application and results of MDEQ assessment thereof pursuant to the Water Withdrawal Assessment Tool (WWAT) in compliance with Michigan's NREPA, P.A. 451 of 1994, as amended, Part 327: Great Lakes Preservation Act, MCL 324.32706a *et seq.*;
 - i. Withdrawal of groundwater resulting in likely impacts to the interconnected lakes, streams, ponds, wetlands, fish and other aquatic species, and any and all copies of the application and results of MDEQ assessment thereof pursuant to the Water Withdrawal Assessment Tool (WWAT) in compliance with Michigan's NREPA, P.A. 451 of 1994, as amended, Part 327: Great Lakes Preservation Act, MCL 324.32706a *et seq.*;
 - j. Contamination of groundwater, surface water and drinking water supplies;
 - k. Contamination of environmentally sensitive areas;
 - l. Off-site soil erosion that causes nutrient degradation, pollution, and wildlife habitat impacts, recognizing that oil and gas operations are exempt from Part 91: Soil Erosion and Sedimentation Control (SESC) Act of Michigan's NREPA, P.A. 451 of 1994, as amended;
 - m. Activities that impact the course and flow of storm water runoff;
 - n. Environmental consequences from the storage and disposal of wastewater on-site;
 - o. Environmental consequences from the loading, unloading and off-site transport of waste and products;

- p. Environmental consequences of wells and pipelines within, or in close proximity to protected wetlands, woodlands and environmentally sensitive areas within the Township.
- (2) Each of the adverse secondary impacts addressed by this article constitutes a harm which the Township has a substantial government interest in preventing and/or abating. This substantial government interest in preventing such adverse secondary impacts is the Township's rationale for this Ordinance, and exists independent of any comparative analysis between oil and gas exploration/development and other industrial activities.
- (3) The Township finds that the documentation relied on in support of this Ordinance is reasonably relevant to the Township's interest in preventing adverse secondary impacts. The Township hereby adopts and incorporates herein its stated findings and the legislative record related to the adverse secondary impacts of oil and gas exploration, extraction and development from the following studies and reports made a part of the legislative record including but not necessarily limited to:

Secondary Impacts of Oil and Gas Exploration and Development: Charter Township of West Bloomfield, Oakland County, by Christopher P. Grobbel, PhD.

Residential Depreciation With Introduction of Oil and Gas Drilling and Fracking, by David M. Heinowski, MAI; *Too Close to Home: The Location of Oil and Gas Wells in Michigan, A Position Paper* by Laura Robinson, PSY.D

Report on Fracking by the Oakland County Water Resources Commissioner Jim Nash;

Environmental Risks of Michigan Oil and Natural Gas Development by Christopher Grobbel, PhD

Seismic Shift: Oklahoma's Earthquakes Triggered by Wastewater Disposal Wells, by Michael Walsh dated April 23, 2015

Updated USGS-Oklahoma Geological Survey Joint Statement on Oklahoma Earthquakes, dated May 2, 2014 by USGS

Hydraulic Fracturing Radiological Concerns for Ohio, by Melissa Belcher, MS and Marvin Resnikoff, PhD.

Water Wells in Proximity to Oil and Gas Development: What you Need to Know, published by the Ground Water Protection Council

Ladra v. New Dominion, LLC, 353 P3d 529 (2015)

Hiser v. XTO Energy, Inc., 768 F.3d 773 (2014)

Wallach v. Town of Dryden, 23 NY3d 728 (2014)

In The Matter of Norse Energy Corporation USA v. Town of Dryden, and Dryden Resources Awareness Coalition, 108 AD3d 25 (2013)

Addison Township v. Grout, 435 Mich. 809, 460 N.W.2d 215 (1990)

Michigan Oil Company v. Natural Resources Commission, 406 Mich. 1; 276 N.W.2d 141 (1979)

West Michigan Environmental Action Council v. Natural Resources Commission, 405 Mich. 741; 275 N.W.2d 538 (1979)

as well as in experiences, and other evidence generated by other communities of the adverse secondary impacts of oil and gas exploration/development and ancillary activities such as Shelby Township as depicted at the October 8, 2014, Residential Oil Drilling Town Hall; Scio Township, Washtenaw County and West Bay Exploration Wing 1-15 exploratory well during 2014-2015; Santa Barbara County from the Exxon Mobile pipeline rupture in 2015; City of Glendive Montana from the 2011 and 2015 pipeline rupture; Calhoun County from the Enbridge pipeline rupture in 2010

and the experiences of the National Oceanic and Atmospheric Administration, Office of Response and Restoration found in the many reports regarding oil and chemical spill research available at <http://response.restoration.noaa.gov/oil-and-chemical-spills/research-publications>.

Section 4: Rationale

- (a) A need has emerged to protect the public health, safety and welfare pursuant to the authority granted by the Michigan Constitution, Article VII, Sections 14, 17, 18, 19, 29, and 34; and the Michigan General Law Township Act, Sections 41.181 and 41.183, to adopt a regulatory ordinance to minimize the adverse secondary impacts of oil and gas development/exploration and ancillary activities within the Township.
- (b) This Ordinance is designed to establish reasonable and uniform regulations to prevent potential adverse secondary impacts related to these activities. The regulations adopted are designed to provide objective and orderly procedures for the administration of this Ordinance.

Section 5: Certificate of compliance required.

Prior to commencing with oil or gas exploration, extraction or development or ancillary activities, a certificate of compliance (COC) shall be obtained certifying that the proposed oil and gas activities within the Township comply with all applicable ordinances and that all required Township permits and certificates have been obtained.

Section 6: Application requirements for issuance of a certificate of compliance.

An administratively complete application is required that shall include all information, documents, plans, and studies as listed, and is signed by all persons who have a legal or equitable interest in the property. An applicant shall file a complete application with the Zoning Administrator which conforms to and includes all the following information and documentation:

- (1) *Applicant/operator*. The business name, address, telephone number, and e-mail of the applicant/operator.

- (2) *Property owner.* The name, address, telephone number and e-mail of the property owner.
- (3) *Location.* The location of the proposed activity, the zoning classification, legal description, and parcel identification number(s).
- (4) *Local agent.* The name, address and telephone number of the local agent who will be available twenty-four (24) hours a day in the event of emergency, who is authorized to provide notice of a release, receive service of process, and is responsible to ensure compliance with the regulations of this Ordinance. In the event the local agent changes, the applicant/operator shall immediately notify the Sharon Township Zoning Administrator in writing of the name and business address of the new local agent.
- (5) *Permit applications.* A copy of all permit applications filed by the applicant/operator with the State of Michigan, the county, the road commission, MDEQ, MDOT, or other local units of government for oil or gas exploration/development and ancillary activities associated with the proposed site.
- (6) *Governmental agency permits.* A copy of any permit issued and/or denied by a governmental agency related to the proposed oil or gas activities on the proposed site.
- (7) *Permits.* A copy of all of the following state, federal or local permits:
 - a. If required, a copy of wetland permit;
 - b. If required, a copy of air, surface water discharge permit(s);
 - c. If required, a copy of liquid waste hauling and disposal permit(s), including but not limited to deep well injection permit;
 - d. If required, a copy of threatened and/or endangered species “take” permit(s);
 - e. If required, a copy of soil erosion and sediment control permit or any other supplemental documentation under other governmental authority(-ies);
 - f. If required, a copy of any construction permit(s).
- (8) *Schedule.* A timeline and activity schedule for the calendar year and/or season(s) of operations, as well as a daily schedule of on-site operations and activities for the proposed oil or gas exploration, extraction or development and ancillary activities.
- (9) *Plans.* A copy of the following plans, if applicable:
 - a. Soil erosion and sedimentation control plan;
 - b. Landscape and Screening plan;
 - c. A hydrogeological study and monitoring plan;
 - d. Water withdrawal and management plan;
 - e. Protected species impact mitigation plan;
 - f. Truck route plan;

- g. Noise management plan;
- h. On-site chemical storage plan;
- i. Waste management and disposal plan;
- j. Pollution prevention plan;
- k. Emergency response plan;
- l. Site identification plan;
- m. Site lighting plan; and
- n. Site restoration plan.

(10) Required plans shall comply with the following:

- a. *Soil erosion and sedimentation control plan.* The soil erosion and sedimentation control plan shall comply with all applicable provisions of Part 91 SESC of Michigan's NREPA, P.A. 451 of 1994, as amended, and Article 18 of the Sharon Township Zoning Ordinance.
- b. *Grading plan.* The grading plan shall comply with all applicable provisions of Article 18 of the Sharon Township Zoning Ordinance.
- c. *Hydrogeological study and monitoring plan.* A hydrogeological study and monitoring plan is required for the protection of groundwater. Such study shall consist of a minimum of five (5) on-site groundwater monitoring wells at the perimeter of the drilling pad set at a depth encountering the first water bearing zone. Groundwater depth, gradient, and flow direction shall be determined within a minimum of three (3) groundwater monitoring wells, and a minimum of two (2) downgradient groundwater monitoring wells shall be installed to determine and monitor groundwater conditions. The initial results of the study must be included in the application submittal for the application to be considered administratively complete and shall comply with all applicable provisions of Article 18 of the Sharon Township Zoning Ordinance.
- d. *Water withdrawal plan.* The applicant/operator shall provide a water withdrawal plan which is designed to protect the level of water in lakes, ponds, wetlands, watersheds, groundwater and residential drinking wells located within the Township, including all materials submitted to the MDEQ as part of the WWAT assessment. Such water withdrawal plan shall be based upon the results of a required valid hydrogeological study and groundwater pump test, and shall comply with all applicable provisions of Article 18 of the Sharon Township Zoning Ordinance. Pump test results shall be included in the required water withdrawal plan.
- e. *Water management plan.* The applicant/operator shall provide a water management plan designed to determine and detail any potential or anticipated short and long term impacts from planned groundwater withdrawals. Applicant/operator must

submit the results of a valid hydrogeological investigation, results of a valid aquifer pump test, and computer modeling to determine aquifer characteristics and the lateral radius of the cone of depression and anticipated impacts to water supply wells and environmental features to be created at the proposed aquifer pump rate at the location of the proposed point of groundwater withdrawal.

- f. *Truck route plan.* Excessive truck traffic impedes the flow of traffic within a community and results in significant damage to paved and/or gravel roads within the community. Therefore, the applicant/operator shall submit a proposed truck route plan. The plan shall be developed to minimize the impact on local traffic flow and on the condition of local roads utilizing an engineered pavement management system (PMS) methodology to determine existing hard surface road conditions. The plan shall include the proposed routes of all trucks to be utilized at the site, the estimated maximum weight of those trucks, and the estimated number of trucks entering and exiting the site on a daily basis. The plan shall also provide for restoration of damaged roads consistent with best engineering practices utilized for bituminous or concrete paving systems. The proposed truck route plan shall be approved by the Zoning Administrator based on consultation with the Washtenaw County Road Commission, Washtenaw County Office of the Sheriff, Washtenaw County Emergency Management Operations Center, and the Manchester Township Fire Department Chief (covering Sharon Township).
- g. *Noise management plan.* Industrial operations in and adjacent to residential districts oftentimes generate noise, vibration, etc. that is emitted off-site. The applicant/operator shall submit a noise management plan as approved by the Township detailing how the equipment used complies with the maximum permissible noise provisions of Article 18 of the Sharon Township Zoning Ordinance, how the operations will not create conditions that result in unreasonable interference with the comfortable use and enjoyment of another's property. The applicant/operator shall be responsible for verifying compliance with this section and the noise management plan after the installation of the noise generating equipment. The noise management plan shall:
 - 1. Provide documentation establishing the ambient noise level prior to construction;
 - 2. Identify the operations on site that have the potential to cause noise impacts;
 - 3. Specify how the impacts will be mitigated considering the following characteristics:
 - (i) Nature and proximity of adjacent development and land uses;
 - (ii) Seasonal and prevailing weather patterns, including wind directions;
 - (iii) Extent of vegetative screening on or adjacent to the site;
 - (iv) Topography.

- h. *On-site chemical storage plan.* A chemical storage plan containing a list and the location of all chemicals on-site and the material safety data sheets (MSDS) is required and shall be submitted to the Manchester Township fire department. If the list of chemicals is confidential and not subject to disclosure under the Freedom of Information Act (FOIA), the list shall be marked accordingly.
- i. *Waste disposal plan.* The application shall include a complete description of all projected waste, and shall include a list of all chemical constituents and total volumes intended for disposal and the manner by which waste shall be lawfully disposed.
- j. *Pollution prevention plan.* The applicant/operator shall provide a pollution prevention plan which is designed to protect the lakes, ponds, wetlands, watersheds, soil/groundwater, air, woodlands, wildlife habitats, walking trails, nature paths, and other environmentally sensitive areas of the Township from contamination or pollution that may result from the proposed oil and gas exploration/development and ancillary activities.
- k. *Emergency response plan.* A copy of applicant/operator's emergency response plan, which shall be submitted to the Washtenaw County Sheriff, Manchester Township Fire Department, Washtenaw County Emergency Services Center, and the Sharon Township Zoning Administrator. Also, the applicant/operator shall, at its sole cost and expense, provide appropriate site orientation and adequate information for on-going training to address any potential hazardous or dangerous conditions that may result from the oil and gas exploration/development and ancillary activities. Pursuant to state and federal law, the operator shall provide any information necessary to assist the Township with establishing written procedures to minimize hazardous or dangerous conditions that may result from the proposed oil and gas exploration/development and ancillary activities.
- l. *Site identification plan.* A site identification plan shall be submitted delineating the location, wording and size of required site signage.
- m. *Site lighting plan.* A site lighting plan shall be submitted for all phases of oil and gas exploration/development and ancillary activities, and such plan shall comply with all applicable provisions of Article 18 of the Sharon Township Zoning Ordinance.
- n. *Site restoration plan.* A site restoration plan shall be submitted showing the nature, extent and timelines for site restoration once exploration, extraction and development activities have ceased, and the well is abandoned and plugged pursuant to the well construction code pursuant to Part 127 of Act No. 368 of the Public Acts of 1978, as amended, being MCL §333.12701 *et seq.*

- (11) *Road maintenance agreement.* The applicant/operator and the Township shall enter into a road maintenance agreement with the Township, provide the required road maintenance escrow, and adhere to all conditions set forth in the agreement in consultation with the Washtenaw County Road Commission.
- (12) *Site maintenance agreement.* The applicant/operator shall include a copy of the executed standard Township site maintenance agreement.
- (13) *Proof of insurance.* The applicant/operator shall include proof of insurance in coverages and amounts as established by resolution of the Township Board including a required pollution incident rider.
- (14) *Statement.* A statement as to whether the applicant/operator has operated a site where a release occurred, where there was a violation of any provision of the Michigan's NREPA, P.A. 451 of 1994, as amended, or where there was a finding that a nuisance existed; describe each release, violation, or nuisance, and specify the date, place, jurisdiction and any emergency and/or remedial action taken.
- (15) *General operations.* A statement providing a general operations plan with a description of the nature of the proposed activities, hours of operation, the number of employees, and projected duration of the oil and gas exploration/development and ancillary activities.
- (16) *Inspection.* The application shall include a statement authorizing Township officials or their agents to enter upon the site for the purpose of inspection to determine if the applicant/operator is in compliance with applicable ordinances.
- (17) *Supplementation.* The application information required shall be supplemented in writing by certified mail, return receipt requested, to the Zoning Administrator within ten (10) business days of a change of circumstances which would render the information originally submitted false or incomplete.
- (18) *Fees, expense reimbursement, performance guarantee.* The applicant/operator shall pay the application fee and shall establish an escrow to reimburse the Township for all expenses of inspection, administrative review, technical review, and for professional and consultant fees incurred including, but not limited to: engineering, planning, building, environmental, and legal fees. A performance guarantee is required in an amount sufficient to ensure compliant closure and restoration of the well and site. The application fee, escrow, and performance guarantee shall be established by resolution of the Township Board. The resolution shall be placed on file and made available at the office of the Township Clerk.
- (19) *Signatures required.* The application shall be signed by both the applicant/operator and property owner, and shall be maintained by the Township Zoning Administrator.
- (20) *Disclosure.* The information provided by an applicant/operator in connection with an application for a certificate under this article shall be maintained by the Township and

any personal information deemed confidential will be disclosed only as required by law or by court order.

Section 7: Issuance of certificate of compliance

- (a) Upon compliance with all applicable ordinances, a certificate of compliance shall be issued by the Township.
- (b) Nothing in this article, nor the issuance of a certificate of compliance shall be construed to exempt the applicant/operator or property owner from complying with any other applicable Township, state or federal regulation, requirement or permit.

Section 8: Special conditions and restrictions

The Township may attach special conditions, restrictions, requirements, or limitations which are reasonable and necessary to protect the public health, safety and general welfare; to prevent pollution, impairment or destruction of natural resources; and to avoid the creation of public or private nuisances.

Section 9: State and federal compliance

The applicant/operator shall comply with all applicable state and federal regulations and shall provide evidence of obtaining the required state and/or federal permits, including proof of insurability, before initiating any work and shall maintain the required permits throughout the duration of all operations. The applicant/operator shall notify the Township immediately of any suspension or revocation of any required state and/or federal permit. Upon notification of a suspension or revocation, the Township-issued certificate will hereby be deemed suspended or revoked until state and/or federal compliance is reached.

Section 10: Denial

In the event the Township issues a written notice to deny for failure to comply with the requirements of this Ordinance, the provisions of Section 12 of this Ordinance providing for an appeal hearing shall apply.

Section 11: Suspension

Upon receiving notice of a violation of any provision of this Ordinance, the Township Clerk shall issue a written notice of intent to suspend, which shall include the grounds for the suspension, the effective date of the suspension, and that an appeal hearing before the Township Board may be requested by filing a request in writing within twenty-one (21) calendar days. A hearing shall be provided pursuant to the provisions of Section 12. The suspension shall take effect immediately after the date of the notice of suspension or, if an appeal hearing is requested, as approved by the Township Board after the hearing is held.

Section 12: Revocation

- (a) Upon receiving notice that any of the following adverse conditions have occurred, the Township Clerk shall issue a written notice of intent to revoke and schedule a hearing as provided by Section 12:
 - (1) *Release*. If a release of a hazardous substance(s) occurs in violation of this Ordinance, or any state or federal law or regulation.
 - (2) *Environmental consequences*. Environmental consequences of a release from a well, pipeline or ancillary facilities that cause one (1) or more of the following:
 - a. A disruption to wildlife or unacceptable fragmentation of wildlife habitats;
 - b. Withdrawal of groundwater resulting in an adverse impact to drinking water wells, lakes, streams, ponds and wetlands situated within the community;
 - c. Contamination of soil, groundwater, air, surface water or environmentally sensitive areas in excess of unrestricted residential standards promulgated pursuant to Part 201 of Michigan's NREPA, Public Act 451 of 1994, as amended;
 - d. Risks or impacts to human health, safety and community welfare.
 - e. Impacts to the course and flow of storm water runoff.
 - (3) *A pattern of adverse impacts*. It is demonstrated that the operations have resulted in a pattern of adverse impacts to the nearby properties that substantially disturb the peace, order, and tranquility of the neighborhood.
 - (4) *Illegal activity*. The applicant/operator has knowingly or recklessly engaged in illegal activity or allowed illegal activity to occur on the site.
- (b) *Effective date*. The revocation shall take effect immediately from the date of the notice of revocation.
- (c) *Appeal*. The written notice of intent to revoke, shall include the grounds for the revocation, the effective date of the revocation, and that a request for an appeal hearing before the Township Board may be made in writing, within twenty-one (21) calendar days of the date of the notice of intent to revoke, pursuant to the provisions of Section 12. If not appealed, the suspension shall take effect immediately after the date of the notice of suspension.

Section 13: Appeal hearing

- (a) *Notice of hearing*. Upon receipt of a request for appeal, the Township Board shall conduct an appeal hearing on the intent to suspend or revoke the certificate of compliance. The Township Board shall serve notice upon the applicant/operator and property owner by certified mail not less than twenty-one (21) calendar days prior to the hearing date. The notice shall:
 - (1) State the date, time and place of the hearing;

- (2) Include a statement that evidence and testimony may be presented, and there is a right to be represented by an attorney.
- (b) *Hearing and decision.* The hearing shall be conducted by the Township Board, and shall be open to the public. The Township Board shall issue a written statement of its findings, decision, specific grounds for its decision, and a statement that the decision may be appealed to a court of competent jurisdiction.

Section 14: Release prohibited

It shall be unlawful for any person to release or cause a release, discharge, or emission of any hazardous or potentially hazardous substance, contaminated water, liquid, oil and/or natural gas, brine, or other substance, liquid, gas, oil or combination thereof, containing a concentration greater than the limit established by state or federal law or regulation, whichever is lower, onto any area of the Township, including but not limited to, the air, surface of any land, or into any ditch, creek, stream, watercourse, wetland, pipe or conduit from any oil or gas exploration/development or ancillary activity, or from any structure, building, facility, equipment, or system used for any oil or gas activity within the Township.

Section 15: Operator compliance with all permits, plans and agreements

The operations shall comply with all permits issued, all required plans as approved, and any and all conditions attached to the permit or approved plan; and shall comply with the provisions of all agreements between the operator and the Township.

Section 16: Emergency response plan and training

- (a) *Submission.* Prior to commencing with any activities, a copy of the emergency response plan shall be submitted to the county Sheriff and emergency services center, Township fire, and the Township Zoning Administrator.
- (b) *Information required.* Pursuant to state and federal law, the operator shall provide any information necessary to assist the Township and all applicable local authorities and emergency personnel with an emergency response plan and hazardous materials survey establishing written procedures to minimize any potential hazard resulting from oil and gas exploration/development and ancillary activities.
- (c) *Training.* Emergency response training of on-site personnel is required, and a copy of the emergency response plan shall be maintained on the site at all times.

Section 17: Truck route.

At no time shall any overweight vehicle travel upon any roads within the Township and at no time shall any trucks travel upon any roads within the Township other than as specified in the approved truck route plan. The operator shall keep a truck use log which includes the number of trucks entering and exiting the site on a daily basis and the loaded-weight of each truck. If the

truck traffic substantially impedes local traffic flow, threatens pedestrian travel, or if a road that is designated for truck travel in the truck route plan is closed due to construction, an emergency, or weather then the truck route plan shall be reviewed by the County Sheriff and adjustments may be made to reduce the impact on traffic flow or pedestrian safety, or to make other temporary or permanent adjustments needed due to the change in circumstances. The operator shall comply with any adjustment made by the County Sheriff.

Section 18: Site identification signage

Site identification signage, in a size not to exceed eight (8) square feet and visible from from a public roadway, shall be provided at each entrance to the site and shall clearly provide the following information:

- (1) Applicant/operator name;
- (2) Township-assigned address;
- (3) Name and mobile phone number of the local agent(s);
- (4) The twenty-four-hour emergency contact name and phone number.

Section 19: Landscaping required

Staggered minimum twelve (12) foot tall evergreen trees shall be placed around the perimeter of the site with a minimum landscape greenbelt buffer of twenty-five feet (25') in depth. The landscape buffer and trees shall be irrigated and maintained.

Section 20: Fence required

- (a) The site shall be completely enclosed with a chain link fence as follows:
 - (1) The chain link fence shall be at least eight feet (8') in height;
 - (2) The chain link posts and rails shall be dark green or black steel wire and shall have, at a minimum, 11-gauge thickness;
 - (3) Support posts shall be set in concrete and shall be imbedded into the ground to a depth sufficient to maintain the stability of the fence;
 - (4) All chain link fences shall be equipped with at least two (2) gates.
- (b) A secured entrance gate on the access road shall be required and all gates are to be kept locked when the operator or its employees are not on the premises.

Section 21: Exterior lighting

Obnoxious night-time light emitted off the site interferes with comfortable, quiet use and enjoyment of surrounding residential property. Site lighting shall be shielded, directed downward and directed internally on the site so as to avoid glare on public roads, and adjacent property, dwellings and buildings. Exterior lights shall be turned off except when personnel are working on-site or motion sensors are activated.

Section 22: Access roads

Access to any facility shall be arranged to minimize danger to traffic; to minimize nuisance to surrounding properties; obtain and comply with all required state and county road commission standards and permits; and to maintain the integrity of Township roads. The following standards apply:

- (1) Any newly established private easement or access roads constructed on the parcel containing the facility shall be located at least fifty feet (50') from any property line unless written consent is obtained from the adjoining property owner(s), a copy of any such consent agreement shall be provided to the Township;
- (2) Prior to the commencement of any facility operations, the access road to the facility, beginning with its intersection with a Township road, shall be paved for the first fifty feet (50') and be constructed with an additional one hundred fifty feet (150') of limestone in a manner that would reasonably minimize water, sediment or debris carried onto any public road; and
- (3) All access roads shall be constructed and maintained to prevent the distribution of dust and mud to the surrounding area. A method of dust abatement shall be utilized during dry weather conditions and under no circumstances shall brine water, sulphur water, or water in mixture with any type of hydrocarbon be used for the abatement of dust.

Section 23: Pipelines

No applicant/operator shall excavate or construct any lines for the conveyance of fuel, water, oil, gas, or petroleum liquids on, under, or through the streets, alleys or other properties without obtaining all required approvals and permits from the Township.

Section 24: Nuisance mitigation required

The oil and/or gas activities shall be conducted in such a manner as to prevent operations from becoming a nuisance under Township ordinances and state law, and such activities shall comply with the standards set forth in Article 3 of the Sharon Township zoning ordinance. Additionally, the site, all structures and all exterior equipment on the property shall be properly maintained and shall not be permitted to become dilapidated, unsightly, unsafe or blighted.

Section 25: Dust, noise, vibration and odors

All operations shall be conducted in such a manner as to minimize, so far as practicable, dust, noise, vibration, or noxious odors, and shall be in accordance with the best management practices as defined by the Michigan Department of Environmental Quality (MDEQ) for the exploration and/or production of oil, gas and other hydrocarbon substances and ancillary activities. All equipment used shall be constructed and operated so that dust, noise vibrations, and odors or other adverse impacts will be minimized and retained on-site, thereby reducing the adverse impacts to adjacent properties and persons living or working in the surrounding area.

Section 26: Power equipment

Compressors and other power-driven equipment shall utilize sparkless electric motors as an alternative to internal-combustion engines unless the applicant/operator can demonstrate to the Township's satisfaction that other proposed engines are consistent with the objectives of this Ordinance; will not cause noise, vibrations or odors to migrate off-site; and will not be a nuisance to adjacent properties. All electrical installations and equipment shall conform to Township ordinances and applicable national codes.

Section 27: Disturbing the peace prohibited

The local agent shall be responsible to maintain the premises to ensure compliance with all applicable provisions of Article 18.07 of the Sharon Township Zoning Ordinance, Environmental Standards: Noise.

Section 28: Protection of residential well water

Oil and gas activities shall not result in impacting residential water supplies, including but not necessarily limited to:

- (1) The withdrawal of groundwater resulting in reducing the volume or amount of well water serving residential properties; or
- (2) Contamination of soil, groundwater, and drinking water supplies.

Section 29: Disturbance of environmentally sensitive and protected areas

Any oil and/or gas activity shall not cause environmental consequences to wetlands, woodlands and environmentally sensitive areas including but not limited to:

- (1) A disruption to wildlife and unreasonable fragmentation of wildlife habitats;
- (2) A disruption to public parks;
- (3) A disruption to nature preserves;
- (4) Withdrawal of groundwater resulting in an impact to private water supplies, lakes, streams, ponds and wetlands within the community;
- (5) Contamination of soil, groundwater, surface water or environmentally sensitive areas;
- (6) Impacts to the course and flow of storm water runoff.

Section 30: Monitoring

- (a) The operator, at its own cost, shall monitor the impact of its activities on the environment within one thousand (1,000) feet of the site, on the watershed in which the site is located, and on adjacent residential properties to ensure that a release has not occurred and that the adverse impacts of the operator's activities are not adversely impacting nearby properties.

- (b) In order to conduct the monitoring required by this Ordinance the operator, at its own cost, shall sample on-site groundwater monitoring wells quarterly for purgeable aromatic hydrocarbons, methane and chloride, and shall report the sample results to the Township Zoning Administrator within ten (10) calendar days of receipt of sample laboratory test results.
- (c) In order to conduct the monitoring required by this Ordinance the operator shall demonstrate to the Township how the operator will obtain site access to comply with these monitoring requirements, and provide copies of all such signed site access agreements with property owners with the Township.

Section 31: Copy of data

- (a) Operator shall copy the Township on all data required to be delivered to the Michigan Department of Environmental Quality (MDEQ) and/or the United States Environmental Protection Agency (EPA) for the site operations.
- (b) The operator shall provide any laboratory test results to the Township upon request.

Section 32: Waste disposal

Operator shall inform the Township in writing of any modification of the waste stream and/or any new waste not included in the application. Applicant/operator shall provide a yearly report to the Township which includes an analysis of the waste stream for all chemical constituents and total volumes. The operator shall also allow the Township to conduct random samples of the waste stream upon a forty-eight (48) hour notice to the operator. This sampling and testing shall be at operator's expense.

Section 33: Well conversion

- (a) *Oil and/or gas wells.* Prior to converting an oil or gas well to a Class II brine injection well, an operator shall file the following updated documents and plans with the Township Zoning Administrator:
 - (1) Hydrogeological study and monitoring plan;
 - (2) Truck route plan;
 - (3) Noise management plan;
 - (4) On-site chemical storage plan;
 - (5) Waste management and disposal plan;
 - (6) Pollution prevention plan;
 - (7) Emergency response plan;
 - (8) Proof of insurance.
- (b) *Class II liquid industrial waste well.* Prior to installing a new Class II liquid industrial waste well or to converting any existing well to a Class II liquid industrial waste well, an operator

shall file an administratively complete application that conforms to all application requirements set forth in this Ordinance.

Section 34: Notices required; application

Oil and gas exploration/development and ancillary activities have the potential of adverse secondary impacts and very serious consequences. Further, there is a lack of information readily available to the municipality and the public regarding local exploration, extraction and development of oil and gas operations and ancillary activities. Therefore, the following notice to the Township and surrounding properties is required to enable the Township to ensure the protection of the health, safety and welfare of its residents, of environmentally sensitive features, residential water wells and the quality of life:

- (1) Within five (5) calendar days before filing an application for a permit with the State of Michigan to conduct any oil or gas activity within the Township, the applicant shall file a copy of the application with the Zoning Administrator.
- (2) Within seven (7) calendar days before filing an application for a permit with the State of Michigan, the applicant shall by regular United States mail, notify the owner(s) of record and/or occupant(s) of all properties within one thousand three hundred twenty (1,320) feet of the proposed well location and shall include the following information:
 - a. The name and address of the applicant.
 - b. A statement that the applicant has applied for a permit to drill and operate an oil and gas well.
 - c. A statement that a person may submit comments on the application by mail to the Michigan Department of Environmental Quality (MDEQ), Office of Oil, Gas and Minerals (OOGM), and provide the applicable address.
 - d. Include a copy of the first page of the permit application.

Section 35: Notice required; release

A copy of the emergency response plan shall be maintained on-site at all times. In the event of a release or suspected release of five (5) gallons or more of a contaminated liquid, in violation of this article or any applicable state or federal law or regulation, the operator of the site shall provide immediate notice of the release to the Manchester Township Fire Department, the Washtenaw County Office of Sheriff and Emergency Management Center, and Sharon Township Zoning Administrator.

Section 36: Operator information and incident reports

The operator shall notify the Township of the following:

- (1) Any change to the name, address and phone number of the operator immediately after the change occurs.

- (2) Any change to the name, address and phone number of the person(s) designated to receive notices from the Township within twenty-four (24) hours after the change occurs.
- (3) Any "incident report" or written complaint submitted to the Michigan Department of Environmental Quality (MDEQ), the Supervisor of Wells, or other regulating agency within seventy-two (72 hours) after the operator has notice of the existence of such report or complaint.

Section 37: Penalties and enforcement.

Certificate of compliance holders pursuant to this Ordinance are subject to the terms and provisions of the Sharon Township Municipal Civil Infractions Ordinance, as amended.

Section 38: Applicability of the Act

If this Ordinance is silent to given procedural requirements of the Supervisor of Wells Act, Part 615 of NREPA, P.A. 451 of 1994, as amended, MCL 324.101 *et seq.* or in any way conflicts with that Act, Michigan's Revised Judicature Act of 1961, P.A. 236 of 1961, as amended, MCL 600.8701 *et seq.*, shall govern.

Section 39: Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. Should any part, clause, sentence, provision, paragraph or section of this Ordinance be found invalid, pre-empted, or unconstitutional for any reason by any court of competent jurisdiction, any such decision shall not affect the validity of the reminder of this Ordinance, which shall remain in full force and effect to the maximum allowable extent under said decision.

Section 40: Savings clause

All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

Section 41: Effective date

The provisions of this Ordinance are ordered to take effect thirty (30) calendar days after publication (as the full text or as a summary thereof) in a newspaper of general circulation in Sharon Township.

Section 42: Adoption

This Ordinance was duly adopted by the Sharon Township Board of Trustees at its regular meeting called and held on the ____ day of _____, 2017.

Section 43: Publication

The Township Clerk shall cause this Ordinance or summary of Ordinance No. _____ to be published in a newspaper of general circulation within Sharon Township within thirty (30) calendar days after adoption.

Chelsea Mikel, Sharon Township Clerk

Adoption date:

Publication date:

Effective date:

CERTIFICATION

I, Chelsea Mikel, the Clerk for Sharon Township, Washtenaw County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. _____ adopted by the Sharon Township Board of Trustees at a regular meeting held on _____, 2017.

The following members of the Sharon Township Board of Trustees were present at the meeting:_____.

The Ordinance was adopted by the Sharon Township Board of Trustees with ___ members of the Board voting in favor (_____) and ___ voting against (_____).

A copy of the Ordinance or a summary thereof was published in the Manchester Enterprise on _____.

Chelsea Mikel, Sharon Township Clerk