

**ORDINANCE NO. 2015-04 ORD**

**TOWNSHIP OF CLINTON**

**BUTLER COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE TOWNSHIP OF CLINTON, BUTLER COUNTY, PENNSYLVANIA, AMENDING CURRENT PROVISIONS OF ITS ZONING ORDINANCE, OF THE TOWNSHIP CODE, SETTING FORTH ITS AUTHORITY TO REGULATE OIL AND GAS OPERATIONS.**

**WHEREAS**, the Township of Clinton has enacted a Zoning Ordinance, Ordinance No. 2015-04 ORD on July 14, 2015.

**WHEREAS**, Act 13 of 2012 was enacted by the Commonwealth of Pennsylvania in February of 2012 and amended Title 58 (Oil and Gas) of the Consolidated Statutes and this Act has had or may have certain provisions repealed or amended by the Commonwealth of Pennsylvania from time to time; and

**WHEREAS**, the Clinton Township Board of Supervisors has the power to protect the health, safety; and welfare of the people and property in the Township; and

**WHEREAS**, the Clinton Township Board of Supervisors desires to expressly provide for the use and regulation of oil and gas operations within the Township.

**NOW THEREFORE, BE IT ORDAINED AND ENACTED** by the Clinton Township Board of Supervisors that Section 414 of the Township Zoning Ordinance, No. 2009-01 ORD of the Township Code, is amended as follows by adding the following new sections to the Township Code (underscored language): :

**SECTION 414.1. GAS AND OIL DRILLING DEFINITIONS**

ENVIRONMENTAL ACTS: All statutes enacted by the Commonwealth relating to the protection of the environment or the protection of public health, safety and welfare, that are administered and enforced by the Pennsylvania Department of Environmental Protection (DEP) or by another Commonwealth agency, including an independent agency, and all federal statutes relating to the protection of the environment, to the extent those statutes regulate oil and gas operations.

NATURAL GAS: A fossil fuel consisting of a mixture of hydrocarbon gases, primarily methane, and possibly including ethane, propane, butane, pentane, carbon dioxide, oxygen, nitrogen and hydrogen sulfide and other gas species. The term includes natural gas from oil fields known as "non-associated" gas, coal beds, shale beds and other formations.

NATURAL GAS COMPRESSOR STATION: A facility designed and constructed to compress natural gas that originates from an OIL AND GAS WELL SITE DEVELOPMENT or collection of such wells operating as a midstream facility for delivery of natural 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. This facility may include a water impoundment on the site, natural gas dehydration station, oxidizer units, and other equipment integral to the function of the compressor station.

NATURAL GAS DEHYDRATION STATION: A facility designed and constructed to remove water from natural gas in order to protect piping and equipment from corrosion and hydrate formation.

NATURAL GAS INTERCONNECT/METERING STATION: Interconnects are by definition a connection point between the transmission company and the receiving party (e.g., another pipeline, distribution company or other customer). Interconnects vary in size and complexity. For example, a small interconnect may only include the meter used for gas measurement, while large interconnects (including hubs) can include piping and meters to multiple pipelines, regulators, line heaters used to re-heat the natural gas stream that has cooled from pressure reductions, liquids separation and collection facilities, and other appurtenant facilities. Several companies can own the equipment and are responsible for operation of their individual assets at a single interconnect location. Custody transfer of the natural gas also occurs at the interconnect location.

NATURAL GAS PROCESSING PLANT: A facility that is not a NATURAL GAS COMPRESSOR STATION and which is designed and constructed to remove materials and gases such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets. This facility may also include a water impoundment on the site, natural gas dehydration station, oxidizer units, and other equipment integral to the function of the processing plant.

OIL AND GAS WELL SITE DEVELOPMENT: The term includes the following: well site preparation, construction, drilling, water or fluid storage operations, hydraulic fracturing and site restoration associated with an oil and gas well of any depth. The term includes conventional (vertical) and non-conventional (horizontal) methods of drilling. Facilities associated with well site development may or may not include a water impoundment on the site.

REDUCED EMISSION COMPLETION: Techniques that minimize the release of natural gas and vapors to the environment when a well is being flared during the completion or re-completion phase.

## SECTION 414.2 SUPPLEMENTARY REGULATIONS

### OIL AND GAS WELL SITE DEVELOPMENT

1. A company, entity or person desiring to engage in Oil and Gas Well Site Development shall obtain a Zoning Certificate from the Township Zoning Officer.
  
2. Application Requirements: The Application must include the following information:
  - a. A written narrative signed and dated by the applicant, describing the proposed use outlining an approximate time line for the proposed development.
  - b. Written authorization from the property owner(s) who has legal or equitable title in and to the surface or oil and gas estate of the proposed Development. A copy of the oil and gas, mineral or other subsurface lease agreement or similar document vesting legal or equitable title to the surface will constitute written agreement.
  - c. The name and address of each property owner for each property within 1,000 feet of the proposed well, and well as all abutting property owners.
  - d. A copy of the Applicant's Erosion and Sediment Control Plan (ESCGP-2) (if required by regulation) and Post-Construction Stormwater Management Plan prepared by a licensed professional (e.g. engineer, surveyor, geologist or landscape architect) who is registered in Pennsylvania. Said professional should have attended training provided by Pennsylvania Department of Environmental Protection, Office of Oil and Gas Management on erosion and sediment control and post construction stormwater management for oil and gas activities.
  - e. A road access plan showing both temporary and permanent access routes and

identifying all ingress and egress points.

- f. If any weight restricted Township Roads will be used by Applicant for any oil and gas development or operation, applicant shall comply with any applicable Township Ordinances, Penn DOT regulations, Township road bonding requirements and provide proof of bonding of said roads and enter into a road maintenance agreement with the Township. In lieu of road bonding, the Township and Applicant may mutually agree to other terms to provide for restoration of the affected road(s).
- g. A copy of Highway Occupancy Permits (HOP) and other permits already obtained at the time of the application submission. If no such permit has been obtained, the Applicant shall provide a copy of its application for the HOP and with an approved permit when obtained. A driveway permit shall be required if the entrance to the site is on a Township road.
- h. A copy of the Applicant's Preparedness, Prevention and Contingency Plan.
- i. The name of an individual or individuals and their emergency contact information for the Township or residents to report emergencies 24 hours a day each day of the week.
- j. Fee reimbursement. The applicant agrees to reimburse the Township for all fees permitted under Section 617.3(e) of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10617.3(e).

3. Minimum Lot Requirement. Oil and gas well site development shall only be permitted to be located on property that is a minimum of five (5) acres for a vertical unconventional well site and ten (10) acres or larger for a non-vertical unconventional site. Multiple properties may be combined to meet the five (5) or ten (10) acre applicable minimum acreage requirement. Any oil or gas well shall be located a minimum of 200 feet from an adjoining property line and 500 feet from the nearest dwelling.

4. State and Federal Compliance. The Applicant shall comply with all applicable state and federal regulations and shall show evidence of obtaining the required state and/or federal permits, including proof of insurability, before initiating any work and maintaining the required permits throughout the duration of all operations. The Applicant shall notify the Township immediately of any suspension or revocation of the required state and/or federal permits. Upon notification of said suspension or revocation, the Township-issued permits will hereby be deemed suspended or revoked until state and/or federal compliance is reached.

5. Access roads. Access to any well site shall be arranged to minimize danger to traffic and nuisance to surrounding properties and to maintain the integrity of Township roads. The following shall apply:
- a. Access roads to non-vertical unconventional well pads that intersect a Township Road, shall follow the PennDOT specifications for access roads as well as the following: paving the first 150 feet followed by rumble or tire cleaning strips and improving the remaining surface length with limestone in a manner that would minimize storm water runoff, dirt, mud, and debris from being carried onto any public road. This shall be in place prior to the commencement of drilling operations. Any debris that does travel and accumulate onto a public road as a result of the access road, must be cleaned up within a reasonable amount of time, not to exceed 4 hours, so as to decrease or minimize the potential for damage to the public roads and vehicular traffic on the public road.
  - b. Access roads to vertical conventional and unconventional well pads that intersect a Township Road shall be constructed in a manner acceptable to the Township by improving the remaining surface length with limestone which will minimize storm water runoff, dirt, mud, and debris onto any public road. Any debris that does travel and accumulate onto a public road as a result of the access road, must be cleaned up within a reasonable amount of time, not to exceed 4 hours, so as to decrease or minimize the potential for damage to the public roads and vehicular traffic on the public road.
  - c. All roads and access ways shall be constructed and maintained to minimize the accumulation of dust and mud from the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulphur water or water in mixture with any type of hydrocarbon be used for dust abatement.
6. Traffic. The Applicant shall take 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 permitted, during periods of anticipated heavy or frequent truck traffic associated with development Applicant will provide flag persons or other alternative and approved safety mechanism to ensure the safety of children at or near schools or designated school bus stops and include adequate sign and/or warning measure for truck traffic and vehicular traffic. Applicant will coordinate its efforts with affected school districts so as to minimize heavy truck traffic during the hours school buses are picking up or dropping off children and provide documentation of the cooperation.

7. Site Orientation. Before drilling, first responders, the Township Emergency Management Coordinator, and the Township Supervisors shall have on-site orientation and be provided with adequate awareness information. Applicant will, prior to drilling of an oil or gas well, make available at its sole cost and expense, an appropriate site orientation for first responders. Such site orientation shall be made available at least annually during the period when the Applicant anticipates drilling activities in the Township.
8. Noise standards. For Oil and Gas Well Site Development, including construction, noise levels shall be equal to or less than 75 dBA at the property line or property lease line dividing the site developed and all adjoining properties. After well site development is complete and the well is in production, noise levels shall be equal to or less than 60 dBA at the property line or property lease line dividing the site and all adjoining properties. In the event that an Applicant is unable to meet the aforementioned requirements, the Applicant may either utilize appropriate noise mitigation measures that may include sound barriers or such technology or devices that will allow the Applicant to meet said noise requirements.
9. Lights. No Applicant shall permit any lights located on any operation site to be directed in such a manner so that they shine directly on public road, protected use, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads, protected uses, and adjacent dwellings and buildings. Exterior lights shall be turned off except when personnel are working on site or motion sensors are activated. The Clinton Township Lighting Ordinance shall be adhered to at all times and site lighting shall be determined by The Clinton Township Outdoor Lighting Ordinance.
10. Water Storage. Temporary water storage tanks or impoundments are permitted on the same lot provided the applicant shall adhere to the following:
  - a. Impoundment must be 200 feet from property lines;
  - b. A copy of the Pennsylvania Department of Environmental Protection permit(s), if applicable, must be provided at the time of application or when available;
  - c. Chain-link fencing must be installed around any impoundment and shall be at least six (6) feet in height; or wildlife fence that is Pennsylvania Department of Conservation and Natural Resources and SGL specific is an acceptable approved equal; and
  - d. The impoundment must be reclaimed in accordance with Department of

Environmental Protection's rules and regulations after all of the proposed wells have been completed, or after each well is completed in the event that no additional wells are to be drilled within three (3) consecutive months following the completion of well installation.

11. Operating times. All site preparation and pre-production activities on the site, as well as access road maintenance, site reclamation activity and other ongoing ancillary activities shall be permitted only on Mondays through Saturdays (with the exception of federal and/or state holidays) for the greater of: (a) between the hours of 7:00 a.m. and 5:00 p.m., prevailing time, or (b) one-half hour before sunrise until one-half hour after sunset; or (c) as otherwise authorized by the Board of Supervisors. The active drilling and completions phases are exempt from the limitations of this paragraph.
12. Signage, site identification. All signage must comply with Pennsylvania Department of Environmental Protection's "Unconventional Well 911 Emergency Response Information" Regulations, 35 Pa. C.S. § 7321(a)(4) and 28 Pa. Code § 78.55(e), as may be amended.
13. Regulations set forth in this section supersede the regulations set forth in Section 414 of the Township Zoning Ordinance.
14. If there are unique characteristics of a proposed site, the Township's Zoning Officer (if a permitted use) and/or the Board of Supervisors (if a conditional use) may impose or request additional requirements from an Applicant.
15. All permanent utilities installed to the site shall be installed underground.
16. Type I Screening shall be used on the site in accordance with Section 411, Paragraph 411.2, of the Township Zoning Ordinance and shall be in place within ninety (90) days after the first well is completed. Alternate screening plans may be presented to the Board of Supervisors for approval so long as the rural character of the Township is preserved.
17. Techniques for Reduced Emissions Completions shall be used for Hydraulically Fractured Natural Gas Wells.
18. All permanent structures shall be of the color, such as green or earth tones, to blend with natural, adjacent surroundings.

**SECTION 414.3. NATURAL GAS COMPRESSOR STATION, NATURAL GAS PROCESSING PLANT, AND INTERCONNECT/METERING STATION**

1. Natural Gas Compressor Station, Natural Gas Processing Plant, or Interconnect/Metering Station shall meet the location restrictions established by the Commonwealth, its regulatory agencies and found in those Environmental Acts as well as the Township Subdivision and Land Development Ordinance requirements.
2. No Natural Gas Compressor Station or Natural Gas Processing Plant shall be located closer than 1,000 feet from any dwelling, occupied structure, library, school, place of worship, park, playground, athletic field, or outdoor sports complex on adjoining properties.
3. A Natural Gas Compressor Station or Natural Gas Processing Plant shall only be located on property as described below:
  - a. All Natural Gas Compressor Stations, regardless of size, must be located on a minimum of ten (10) acres and adhere to all bulk and dimensional requirements concerning setbacks and building lines (lot size in the bulk and dimensional requirements does not supersede the required 10 acres stated above.) All Natural Gas Compressor Stations must be totally enclosed in a structure designed to suppress noise and meet the noise requirements of the Township's Ordinance.
  - b. In addition, applicants are required to complete and submit a Subdivision/Land Development application to the Township for review and examination as part of the normal approval process (Township Planning Commission, Butler County Planning Commission, and Township Board of Supervisors).
4. The Applicant shall comply with all applicable state and federal regulations and shall show evidence of obtaining the required state and/or federal permits, including proof of insurability, before initiating any work and maintaining the required permits throughout the duration of all operations. The Applicant shall notify the Township immediately of any suspension or revocation of the required state and/or federal permits. Upon notification of said suspension or revocation, the Township-issued permits will hereby be deemed suspended or revoked until state and/or federal compliance is reached.



5. A copy of the Applicant's Erosion and Sediment Control Plan (ESCGP-2) and Post-Construction Stormwater Management Plan prepared by a licensed professional (e.g. engineer, surveyor, geologist or landscape architect) who is registered in Pennsylvania. Said professional should have attended training provided by Pennsylvania Department of Environmental Protection, Office of Oil and Gas Management on erosion and sediment control and post construction stormwater management for oil and gas activities.
6. First responders, the Township Emergency Management Coordinator, and Township Supervisors shall have on-site orientation and be provided with adequate awareness information. Applicant will, prior to operations, make available at its sole cost and expense, an appropriate site orientation for first responders. Such site orientation shall be made available at least annually during the period when the Applicant anticipates operations in the Township.
7. Noise standards. For Natural Gas Compressor Stations, Natural Gas Processing Plants, or Interconnects/Metering Stations levels shall be equal to or less than 60 dBA at the property line dividing the site developed and all adjoining properties if the facility is regulated by the Public Utility Commission (PUC) and 55 dBA at the first Noise Sensitive Area (NSA) if regulated by the Federal Energy Regulatory Commission (FERC), with NSA defined in the FERC regulations. In the event that an Applicant is unable to meet the aforementioned requirements the Applicant may either utilize appropriate noise mitigation measures that may include sound barriers or such technology or devices that will allow the applicant to meet said noise standards. Additionally, the Applicant must promptly address any persistent vibrations that emanate from the facility in question and pose a health issue or risk to a resident property owner. These noise standards do not apply during the construction of the Natural Gas Compressor Station or the Natural Gas Processing Plant but go into effect when the facility is placed in operation, meaning the operation of any permanently installed equipment or appurtenances. During the construction of a Natural Gas Compressor Station or a Natural Gas Processing Plant, noise levels shall be equal to or less than 75 dBA at the property line dividing the site developed and all adjoining properties.
8. The Applicant shall take the necessary safeguards to ensure that the paved Township roads utilized shall remain free of dirt, mud, and debris resulting from development activities and/or shall ensure such roads are promptly swept or cleaned of dirt, mud and debris accumulations within 4 hours of the occurrence.

9. Applicant shall take 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 permitted, during periods of anticipated heavy or frequent truck traffic associated with development Applicant will provide flag persons or other alternative and approved safety mechanism to ensure the safety of children at or near schools or designated school bus stops and include adequate sign and/or warning measure for truck traffic and vehicular traffic. Applicant will coordinate its efforts with school districts so as to minimize heavy truck traffic during the hours school buses are picking up or dropping off children and provide documentation of the cooperation.
10. A copy of Highway Occupancy Permits (HOP) and other permits already obtained at the time of the application submission. If no such permit has been obtained, the Applicant shall provide a copy of its application for the HOP and with an approved permit when obtained. A driveway permit shall be required if the entrance to the site is on a Township road.
11. The access driveway off the public road to the Natural Gas Compressor Station or Natural Gas Processing Plant site shall be gated at the entrance to prevent illegal access.
12. Natural Gas Compressor Stations, Natural Gas Processing Plants, Interconnects/Metering Stations, and all operating equipment integral to these facilities shall be contained within an enclosed structure and surrounded by fencing at least eight feet in total height.
13. Site lighting shall be directed downward and inward toward the Natural Gas Compressor Station or Natural Gas Processing Plant so as to minimize glare on public roads and adjacent buildings and properties. The Clinton Township Lighting Ordinance shall be adhered to at all times and site lighting shall be determined by The Clinton Township Outdoor Lighting Ordinance.
14. If a person or persons shall have a complaint about the noise level of a certain Natural Gas Compressor Station and/or Natural Gas Processing Plant, they must provide the Township with dBa test results along with the calibration certificate of the machine used to test the dBa levels.
15. Processing Plants shall only be permitted to be located on property that is a

minimum of ten (10) acres or larger. Multiple properties may be combined to meet the ten (10) acre minimum.

16. Regulations set forth in this Section supersede the regulations set forth in Section §175-139 of the Township Code.
17. If there are unique characteristics of a proposed site, the Township's Zoning Officer (if permitted use) and/or the Board of Supervisors (if conditional use) may impose or request additional requirements from an Applicant.
18. Building Permit. The Applicant shall apply for and obtain a Township Building Permit prior to initiating the construction of either a Natural Gas Compressor Station or Natural Gas Processing Plant.
19. Owners of the Compressor Station or Processing Plant or Interconnect/Metering Station shall provide noise dBa readings along with a copy of the sound meter calibration certificate to the Township to ensure compliance with the Ordinance if required by the Township to do so as a result of documented complaints received from Township residents. These readings shall be for a length of time mutually agreed to by the Owners and the Township. The Township may also request the logs of the dBa readings at any time from the owners of the site when noise monitoring is being conducted.
20. Access roads. Access to any well site shall be arranged to minimize danger to traffic and nuisance to surrounding properties and to maintain the integrity of Township roads. The following shall apply:
  - a. Access roads that intersect a Township Road, shall follow the PennDOT specifications for access roads as well as the following: paving the first 150 feet followed by rumble or tire cleaning strips and improving the remaining surface length with limestone in a manner that would minimize storm water runoff, dirt, mud, and debris from being carried onto any public road.
  - b. This shall be in place prior to the commencement of construction operations. Access roads to vertical conventional and unconventional well pads that intersect a Township Road shall be constructed in a manner acceptable to the Township by improving the remaining surface length with limestone which will minimize storm water runoff, dirt, mud, and debris onto any public road. Any debris that does travel

and accumulate onto a public road as a result of the access road, must be cleaned up within a reasonable amount of time, not to exceed 4 hours, so as to decrease or minimize the potential for damage to the public roads and vehicular traffic on the public road.

c. All roads and access ways shall be constructed and maintained to prevent dust and mud from the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulphur water or water in mixture with any type of hydrocarbon be used for dust abatement.

21. All permanent utilities installed to the site shall be installed underground.

22. Type I Screening shall be used on the site in accordance with Section 411, Paragraph 411.2 of the Township Zoning Ordinance and shall be in place within ninety (90) days after construction is completed or after the first compressor or similar functional piece of permanent equipment is placed in service.

23. All permanent structures shall be of such color and design to blend with natural adjacent surroundings and preserve the rural character of the Township.

#### **SECTION 414.4. PERMITTED AND CONDITIONAL USES BY ZONING DISTRICT**

Oil and Gas Well sites shall be considered permitted uses in all Zoning Districts except Rural Residential (RR) where it shall be considered a conditional use. Natural Gas Compressor Stations, Processing Plants, and Dehydration Stations shall be considered conditional uses in Industrial (I) and Limited Business (LB) Zoning Districts, and Metering Stations shall be considered conditional uses in all Township Zoning Districts.

#### **SECTION 11. REPEALER.**

Any ordinance, or section, paragraph or sentence in any other ordinance conflicting with the provisions of this Ordinance is hereby repealed to the extent of such conflict.

#### **SECTION 12. PENALTIES.**

Any Applicant/Operator who violates or permits a violation of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not less than \$500.00 for each day of violation plus all court costs, including reasonable attorney's fees, engineering fees, and other administrative expenses incurred by the Township in the enforcement of this Ordinance. No judgment shall be imposed until the day of the determination of the violation by the Material District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to issue a cease and desist notices and/or to seek equitable relief, including injunction relief, to enforce compliance herewith. No Bond will be required if injunctive relief is sought by the Township. A person who violates this Ordinance shall also be responsible for the Township's attorney's fees and court costs associated with enforcement.

### **SECTION 13. INTERPRETATION AND SEVERABILITY.**

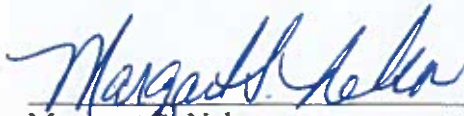
This Ordinance is to be interpreted so that it meets all federal and state constitutional and statutory requirements. This Ordinance is to be interpreted and applied to impose zoning regulations identifying where gas and oil well and other related uses are permitted in the Township and not to regulate technical aspects of such operations, including technical aspects of oil and gas well functioning and matters ancillary thereto governed by Act 13 of 2012 or other laws of the Commonwealth, any regulations adopted pursuant thereto, and any applicable federal laws and/or regulations.

The provisions of this Ordinance are severable. If any provision or part thereof is held to be illegal, invalid, unconstitutional, or to be pre-empted by applicable law and/or regulations by any court of competent jurisdiction, then such provision or part thereof shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion thereof.

### **SECTION 14. EFFECTIVE DATE.**

This Ordinance shall take effect in accordance with applicable law.


ORDAINED AND ENACTED this 14th day of July, 2015



Margaret S. Nelson  
Secretary

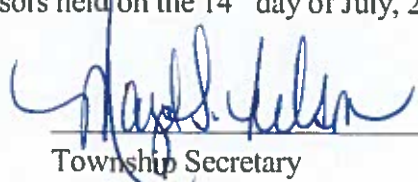


By:   
Edward J. Boyd  
Chairman

By:   
Kathy B. Allen  
Vice-Chairman

By:   
James H. Halstead  
Supervisor

I, Margaret Nelson, Township Secretary of the Township of Clinton, do hereby certify that the foregoing Ordinance was advertised in the Butler Eagle, a newspaper of general circulation, on May 18<sup>th</sup>, 2015 and May 25<sup>th</sup>, 2015, that this is a true and correct copy of Ordinance No. 2015-04 ORD adopted at a regular meeting of the Board of Supervisors held on the 14<sup>th</sup> day of July, 2015.

  
Township Secretary

Date: July 14, 2015