OFFICIAL
TOWSHIP OF FORWARD
COUNTY OF ALLEGHENY, PENNSYLVANIA

ORDINANCE NO. 13-3

AN ORDINANCE OF THE TOWNSHIP OF FORWARD, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, REGULATING THE CONSTRUCTION AND LOCATION OF PIPELINES WITHIN FORWARDTOWNSHIP.

Section 1 INTENT AND PURPOSE

This Ordinance shall be known as the Forward Township Pipeline Ordinance (the "Ordinance"). The intent of Forward Township (the Township) in enacting this Ordinance is to protect the health, safety, welfare and well-being of its residents, property, environment and concerns of the Township. This Ordinance is adopted to protect the property, environment and concerns of the Township and the health, safety, welfare and well-being of its residents, by regulation of Pipelines within the limits of the Township.

Section 2 DECLARATIONS

The regulation of Pipelines is required to protect the natural resources and public trust therein and the public health, safety and general welfare of the people of the Township. Specifically, and not by way of limitation, such Township concerns are based upon the authority and duties imposed by the Township police powers.

Section 3 DEFINITIONS

For purposes of this Ordinance, certain terms and words are hereby defined as follows (words used in the present tense include the future; the singular includes the plural and the plural includes the singular):

A. **Administrator** means the Supervisor(s) of Forward Township, or a person appointed Administrator by the Supervisor(s) with the approval of the Township Board of Supervisors.

B. **Administratively Complete** means an application for a permit that is submitted on a form and contains all of the information or documentation required by this Ordinance.

C. **Applicant** means an individual, firm, corporation, or any political subdivision of the state, including any government authority created by statute, who seeks a permit to conduct any of the activities regulated by this Ordinance.

D. **Permittee** means a person who has been granted a permit to conduct any one or more of the activities regulated by this Ordinance.

E. **Person** means an individual, partnership, limited liability company, corporation, association, governmental entity, or other legal entity.

F. **Pipeline** means a transmission line, flowline or gathering line, together with ancillary equipment such as pigging stations and compressors, which serves to transport any gas, petroleum or hydrocarbon product.

G. **Pipeline System** means the whole of any structures, equipment, or facilities connected to the Pipeline.

H. **Township or Township Board** refers to Forward Township or the Township Board of Supervisors Forward Township, Allegheny County, Pennsylvania.

Section 4 PERMITS; NECESSITY

A person shall not install construct, reconstruct, relocate, alter, modify, operate, or close and remove any Pipeline with the Township without first filing an administratively complete application and obtaining a permit to install and operate the structure or equipment authorized an in compliance with the provisions and standards of this Ordinance.

Section 5 APPLICATION REQUIREMENT

A person who is subject to this Ordinance must file an application for permit to install and operate any Pipeline. The application must be submitted in a form and with the information, date, determinations, calculations, analyses and documentation required by this Ordinance.

Section 6 REQUIREMENT OF ADMINISTRATIVE COMPLETENESS

No recommendation by the Administrator or decision by the Township Board on an application for a permit shall be made until it has been determined that the application is administratively complete as defined in Section 3 of this Ordinance.

Section 7 CONTENT OF APPLICATION

No recommendation to approve or decision to approve or issue a permit shall be made unless the applicant demonstrates and the Administrator and the Township Board determine that the administratively complete application, together with all of the evidence compiled by the Township or made a part of the record before any hearing, meets all of the following:

A. The applicant shall file a written application, together with a permit fee of three thousand dollars ($3,000.00) per mile of pipeline proposed to be constructed or operated, or such other amount as determined by the Township Board by resolution, to cover the administration and review of a specific permit application. If, during the course of processing the application, it appears that additional expenditures will be required, the

same shall be reported by the Administrator to the Applicant and the Township Board. The Township may by resolution increase the permit fee to cover the expenses of analyzing and reviewing the application for permit, and Applicant shall pay such amount to the Township before the permit Process can be continued. In such event, said fee(s) shall be reasonable and necessary for such purpose(s) and shall in no event exceed fifteen thousand dollars ($15,000.00) per application.

B. The application shall contain at a minimum all of the following

1) Names, addresses and phone numbers of the applicant and each engineer, attorney, scientist, contractor or other person engaged in or participating in the preparation of the application, including any information in support thereof, and names and qualifications of any person providing technical information and assistance in support of the application.

2) The legal description of the premises for which the permit is sought.

3) Detailed description of any treatment or processing to be done on the permit premises or another related locations within the Township.

4) A detailed statement of measures to be taken to control noise, vibration, dust, odors, erosion, emissions, discharges, or accidental release or other adverse environmental impacts.

5) A description of the material to be transported by the proposed pipeline and a MSDS for the material.

C. The applicant shall also submit:

1) A copy of any permits, approvals, licenses, certifications or other such approvals required by law or regulation for the facilities, processes, equipment, structures or activities regulated by this Ordinance, including but not limited to the Forward Township Excavation and Land Disturbance permit and proof of payment of all applicable fees, any Excess Weight agreements and payments of necessary bonds for any Township roads to be used for this project, copies of all necessary street crossing or street opening permits for Township road and an approved Allegheny County Soil Erosion and Sedimentation Control Plan.

2) A site plan showing the exact location and topographical survey showing the exact elevation of any pipeline, processing facility, processing equipment or other activity for which a permit is sought. Upon completion, as-built drawings must be provided to the Township in digital and paper format.

3) The exact location and elevation of any oil or gas well or other structure that will connect to such pipeline, process or equipment

4) A map showing the location of all occupied dwellings or structures, public roads, streets, schools, hospitals, parks or other places frequented by the public within 1320 feet of the proposed pipeline and its related system.

5) The proposed access, and at least one other access from a different direction to the proposed pipeline or pipeline system.

6) Proposed buffers and setbacks from any dwellings or structures not related to the proposed pipeline or pipeline system or activity.

7) A map and description of the entire pipeline system that is part of or connected to, or will use or rely on the proposed pipeline.

8) A detailed site reclamation plan for the project.

D. In order to meet the requirements of Section 8, the applicant must additionally submit a description of any public facilities or services required for the installation and maintenance of a regulated use, such as roads or fire protection, whether such services exist, and if not, how applicant proposes that these services be financed and provided.

Section 8 TERMS AND CONDITIONS

If approved or issued, a permit shall include terms and conditions necessary to assure compliance with all applicable requirements of this Ordinance.

A. The Permittee shall file with the Township Secretary a performance guarantee in the sum of twenty-five thousand dollars ($25,000.00) per mile of pipeline to be constructed or operated, to reimburse and indemnify the Township against any loss or liability occasioned by the construction or operation of the pipeline. Reimbursement or payment under the guarantee shall not release Permittee from any claim the Township may have for reimbursement or otherwise. The guarantee shall be approved by the Township Solicitor, and where necessary the Township may require the Permittee to provide an additional amount or other security.

B. The Permittee before any construction shall provide and file a copy with the Township Secretary a policy of general liability insurance for claims of bodily injury, property damage, sickness, illness, disease, medical disorder, or death. The insurance shall be in an amount of at least two million dollars ($2,000,000.00) per person or occurrence and ten million dollars ($10,000,000.00) aggregate, and shall name the Township as a co-insured party. The policy must be for at least one (1) year and copies of any change, modification, renewal or new policy must be filed with the Township Secretary. Any lapse or expiration of coverage whatsoever shall render the permit inoperative, null and void.

C. The Permittee shall agree to release, indemnify and hold harmless the Township, its employees, agents and contractors from any and all liability arising out of the construction, operation maintenance and repair of structures or equipment permitted under this Ordinance.

D. The permit may not be assigned or otherwise transferred without written notification to the Township Solicitor and written approval of the Township Board, showing that the requirements of this Ordinance have been and will continue to be met. Failure to comply with this provision shall render the permit inoperative, null and void, and any operation pursuant to the permit shall cease and any pipeline shall be properly closed and shut down.

E. The permit shall require applicant to establish within fourteen (14) days of issuance of the permit an escrow account or letter of credit for the closure and abandonment of any pipeline approved by the permit, and for any restoration of the property, air or environment where it is located or that has been harmed by operation and closure. The escrow or letter of credit shall be in the amount of fifty thousand ($50,000.00) or in such reasonable additional amount as determined by resolution of the Township Board, to pay for the expenses of the Township in the event the Permittee defaults, or otherwise fails to perform as required by its permit or otherwise is required to clean up or restore property or the environment.

F. The permit shall require the Permittee to acknowledge that approval or issuance of a permit under this Ordinance does not excuse or obviate the Permittee's compliance with all other local, state and federal laws and regulations.

Section 9 PROCEDURES

The Administrator shall contact the Township Planning Commission for review and recommendation with respect to the proposed pipeline.

A. Prior to the granting of any permit hereunder, and not later than thirty (30) days after the filing of the application, the Administrator shall cause the Township Solicitor to set a date for a public hearing, which shall be held by the Township Board within thirty (30) days of such request for hearing. A notice of the date, time, place and purpose shall be published in a newspaper of general circulation in the Township at least seven (7) but not more than twenty-one (21) days prior to said hearing.

B. At least seven (7) days prior to said public hearing, the Administrator shall, whenever possible under reasonable constraints of time and resources, forward his written recommendation with respect to the determination required of the Township Board under this Ordinance, supported by any information which is deemed necessary, including at least one (1) copy of the complete application and any other relevant information which has been submitted or obtained with respect to the application.

C. Upon the conclusion of such public hearing, the Township Board shall render a final determination based upon the facts and records before it within fifteen (15) days from the hearing, and such determination shall be in accordance with standards set forth in Parts 4 and 5 of this Ordinance. Such determination shall consist of a concise statement setting forth the action taken and the reasons in support thereof. In the event that the Township Board cannot make such decision or determination within said sixty (60) day period, it shall notify all interested parties, including the applicant, of such fact an upon such notification, shall be deemed to have an additional thirty (30) days in which to make such determination. At the expiration of sixty (60) days or the extended thirty (30) day period, if the Township Board has not rendered a decision as required under the terms and provisions of this Ordinance, the application shall be deemed to be approved unless further extensions have otherwise been consented to in writing.

Section 10 SPECIAL CONDITIONS AND RESTRICTIONS

The Township Board may attach any special conditions, restrictions, requirements, or limitations to any permit which are reasonable and necessary to protect the public health, safety and general welfare to prevent pollution, impairment or destruction of natural resources and avoid the creation of public or private nuisances. The Township may also set up such terms and conditions for performance guarantee or liability insurance protection as are reasonably necessary and appropriate to the extent that such insurance is obtainable.

Section 11 MONITORING

The Township may provide in the permit for the monitoring of the operation covered by the permit and for payment of the reasonable cost(s) of said monitoring activities. If the Permittee fails to monitor as required by the permit, the Township may conduct its own monitoring and under special conditions which shall grant access to the Township for such monitoring and the Township may recover from the Permittee the reasonable and necessary cost of such, which shall be paid for by the applicant in accordance with the terms of the permit.

Section 12 SUSPENSION OR REVOCATION

The Township may, upon recommendation of the Administrator, suspend any permit granted under this Ordinance upon a finding that the Premises has committed or is committing a serious violation of any provision of this Ordinance or any term or condition of a permit approved under this Ordinance. The permit may also be revoked or suspended upon a finding that the Permittee has failed to disclose a material fact that was known, or should reasonably have been known, to it at the time the application was made and the permit granted. The Township may suspend any permit without notice upon a determination that such suspension is necessary to prevent an imminent endangerment of life, health, safety or property. Except as provided in an emergency and imminent endangerment set forth in the preceding sentence, a permit shall be revoked or suspended only after the following proceedings are complied with:

A. The Permittee shall be served with a written notice of the intention of the Township to suspend the permit, which notice shall specify the alleged facts and reasons which form the basis for the proposed suspension or revocation, and shall specify the date, time and place when the Township shall meet to consider the proposed suspension or revocation. Such notice shall be served by first class mail, addressed to the Permittee.

B. At the time, place and date specified, which will be at least seven (7) days after the service of the notice, the Township shall hear and consider evidence regarding the matters mentioned in the notice and shall afford the Permittee an opportunity to be heard and to present evidence.

C. The permit shall not be suspended unless the Township Board determines the existence of grounds for suspension or revocation as set forth above.

D. Any suspension or revoked permit will be reinstated by the Township Board upon a finding that the reasons and grounds for suspension or revocation no longer exist unless there are underlying material facts which were not disclosed at the time the application was made and the permit was granted and which would result in a determination by the Township Board that the conduct allowed by the original permit violates the standards established by this Ordinance.

Section 13 EXCEPTIONS

Except as hereafter set forth, nothing contained in the Ordinance shall be deemed to require a permit for any activity or operation or pipeline which is in existence prior to the effective date of this Ordinance.

Section 14 SEVERABILITY

If any section, subsection, sentence, clause or phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion thereof.

Section 15 PENALTIES

Any owner, operator, or other person who violates or permits a violation of this chapter, upon being found liable therefore in a civil enforcement proceeding before a Magisterial District Judge, shall pay to the Township a fine of not more than $1,000 per day the violation exists, plus all court costs, including, but not limited to, reasonable attorney's fees incurred by the Township on account of such violation and in enforcing this chapter. No penalty or cost shall be imposed until the date the determination of the violation by the Magisterial District Judge becomes final. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment as provided by law. Each day a violation exists after final judgment shall constitute a separate offense. The amount of the fine imposed shall be multiplied by the number of such days and may be charged and collected as a judgment by the Township without further judicial proceedings. Further, the appropriate officers or agents of the Township are hereby authorized, to issue a cease and desist notice and/or to seek

equitable relief, including injunction, to enforce compliance herewith. No Bond shall be required of the Township if the Township seeks injunctive relief.

Section 16 EFFECTIVE DATE
This ordinance shall take effect five (5) days after passage.

ORDAINED AND ENACTED this 11th day of MARCH, 2013.

ATTEST:

Secretary/Treasurer

TOWNSHIP OF FORWARD

Chairman, Board of Supervisors

TOWNSHIP OF FORWARD - ALLEGHENY COUNTY, PA
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