ORDINANCE No. 47-2012

AN ORDINANCE TO AMEND SECTION 1199.06 OF THE CODIFIED ORDINANCES OF THE CITY OF HEATH, OHIO, RELATING TO EXTRACTION OF MINERALS, TO INCLUDE HYDRAULIC FRACTURING AMONG THE PROCESSES REQUIRING REGULATORY APPROVAL; TO AMEND SECTIONS 1199.01, 1199.02, 1199.04, 1199.06, 1199.07, 1199.08, 1199.09, AND 1199.12 TO SUBSTITUTE THE MUNICIPAL PLANNING COMMISSION FOR THE BOARD OF BUILDING AND ZONING APPEALS AS THE REGULATORY BODY; AND TO AMEND THE TITLE OF CHAPTER 1199.

Be it ordained by the Council of the City of Heath, State of Ohio:

Section 1: That Section 1199.01 of the Codified Ordinances of the City of Heath, Ohio, is hereby amended, and shall read as follows:

1199.01 GENERAL REQUIREMENTS.
Any owner, lessee or other person, firm or corporation having an interest in mineral lands in any District may file with the Municipal Planning Commission an application for authorization to mine minerals therefrom; provided, however, that he shall comply with all requirements of the District in which such property is located.

Section 2: That Section 1199.02 of the Codified Ordinances of the City of Heath, Ohio, is hereby amended, and shall read as follows:

1199.02 DISTANCE FROM PROPERTY LINES.
No quarrying operation shall be carried on or any stock pile placed closer than fifty feet to any property line, unless a greater distance is specified by the Municipal Planning Commission where such is deemed necessary for the protection of adjacent property; provided that this distance requirement may be reduced to twenty-five feet by written consent of the owner or owners of the abutting property.

Section 3: That Section 1199.04 of the Codified Ordinances of the City of Heath, Ohio, is hereby amended, and shall read as follows:

1199.04 FENCING.
Fencing shall be erected and maintained around the entire site or portions thereof where in the opinion of the Municipal Planning Commission such fencing is necessary for the protection of the public safety, and shall be of a type specified by the Municipal Planning Commission.

Section 4: That Section 1199.06 of the Codified Ordinances of the City of Heath, Ohio, is hereby amended, and shall read as follows:

1199.06 PROCESSING AND HYDRAULIC FRACTURING.
The crushing, washing, refining, hydraulic fracturing of rock layers, or other similar processing may be authorized by the Municipal Planning Commission as an accessory use; provided, however, that such accessory processing shall not be in conflict with the use regulations of the district in which the operation is located.
Section 5: That section 1199.07 of the Codified Ordinances of the City of Heath, Ohio, is hereby amended, and shall read as follows:

1199.07 APPLICANT'S FINANCIAL ABILITY.
In accepting such plan for review, the Municipal Planning Commission must be satisfied that the proponents are financially able to carry out the proposed mining operation in accordance with the plans and specifications submitted.

Section 6: That section 1199.08 of the Codified Ordinances of the City of Heath, Ohio, is hereby amended, and shall read as follows:

1199.08 APPLICATION.
(a) An application for such operation shall set forth the following information:
   (1) name of the owner or owners of land from which removal is to be made;
   (2) Name of the applicant making request for such permit;
   (3) Name of the person or corporation conducting the actual removal operation;
   (4) Location, description and size of the area from which the removal is to be made;
   (5) Location of processing plant used;
   (6) Type of resources or materials to be removed;
   (7) Proposed method of removal and whether or not blasting or other use of explosives will be required;
   (8) Description of equipment to be used; and
   (9) Method of rehabilitation and reclamation of the mined area.
(b) Upon receipt of such application, the Municipal Planning Commission shall set the matter for a public hearing in accordance with the provisions of Section 1127.05.

Section 7: That section 1199.09 of the Codified Ordinances of the City of Heath, Ohio, is hereby amended, and shall read as follows:

1199.09 REHABILITATION.
(a) To guarantee the restoration, rehabilitation and reclamation of a mined-out area, every applicant granted a mining permit as herein provided shall furnish a performance bond running to the City, in an amount of not less than one thousand dollars ($1,000) and not more than ten thousand dollars ($10,000) as a guarantee that such applicant, in restoring, reclaiming and rehabilitating such land, shall within a reasonable time and to the satisfaction of the Municipal Planning Commission meet the following minimum requirements.
(b) All excavation shall be made either to a water-producing depth, such depth to be not less than five feet below the low water mark, or shall be graded or backfilled with non-toxic, noninflammable and noncombustible solids, to secure:
   (1) That the excavated area shall not collect and permit to remain therein stagnate water; or
   (2) That the surface of such area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof, so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
Section 8: That section 1199.12 of the Codified Ordinances of the City of Heath, Ohio, is hereby amended, and shall read as follows:

1199.12 ADDITIONAL REQUIREMENTS.
In addition to the foregoing the Municipal Planning Commission may impose such other conditions, requirements or limitations, concerning the nature, extent of the use and operation of such mines, quarries or gravel pits as the Municipal Planning Commission may deem necessary for the protection of adjacent properties and the public interest. Such conditions and the amount of the performance bond shall be determined by the Municipal Planning Commission prior to issuance of a permit.

Section 9: That the title of Chapter 1199 of the Codified Ordinances of the City of Heath, Ohio, is hereby amended, and shall read as follows: Extraction of Minerals and Disposal of Residue Resulting from Extraction Processes.

Section 10: That this Ordinance shall take effect and be enforced from and after the earliest period allowed by law.

Adopted: July 2, 2012

Timothy R. Kelley
Tim Kelley, President of Council

Attest: Lynne Hunt, Clerk of Council

Submitted to the Mayor this 2nd day of July, 2012

Mark D. Johns, Mayor

Approved by the Mayor this 2nd day of July, 2012

David C. Morrison, Director of Law

Approved as to form this 2nd day of July, 2012

First Reading: June 18, 2012