

ORDINANCE NO. 2870

**BOROUGH OF WILKINSBURG
ALLEGHENY COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE BOROUGH OF WILKINSBURG, COUNTY OF ALLEGHENY,
COMMONWEALTH OF PENNSYLVANIA, PROHIBITING THE COMMERCIAL EXTRACTION
OF NATURAL GAS FROM THE GROUND WITHIN THE BORDERS OF THE BOROUGH OF
WILKINSBURG**

WHEREAS, Council of the Borough of Wilkesburg has determined that it is in the best interest and for the health, safety and welfare of the residents of the Borough of Wilkesburg to address the recent increase in the drilling of natural gas wells in Western Pennsylvania to access the Marcellus Shale natural gas formation; and,

WHEREAS, Council of the Borough of Wilkesburg has determined that the commercial extraction of natural gas in the Borough poses a significant threat to the health, safety, and welfare of the residents of the Borough; and,

WHEREAS, environmental and human health concerns have arisen in other communities which have permitted commercial gas extraction, most notably of concern the release of toxins into the air, soil and water; and,

WHEREAS, the safety of commercial gas extraction practices has been called into question following explosions at the drilling sites which resulted in property damage and death; and,

WHEREAS, the urban character of the Borough makes drilling on any property within its borders unreasonable; and,

WHEREAS, this Ordinance prohibits the commercial extraction of natural gas within the Borough because that extraction violates the civil rights of Wilkesburg residents, and because it threatens the health, safety, and welfare of residents and neighborhoods of Wilkesburg; and,

WHEREAS, this Ordinance removes legal powers and authority from gas extraction corporations within the Borough, in recognition that those legal powers are illegitimate and unjust, in that they place the rights of those corporations over the rights and political authority of Wilkesburg residents; and,

WHEREAS, this Ordinance shall be known and may be cited as "Wilkesburg's Community Protection from Natural Gas Extraction Ordinance".

NOW THEREFORE, be it ordained and enacted by the Borough Council of the Borough Wilkesburg as follows:

Section 1 – Findings and Intent

Council of the Borough of Wilkesburg believes that the protection of residents, neighborhoods, and the natural environment constitutes the highest and best use of the police powers that this municipality possesses. The Borough Council also believes that local legislation that embodies the interests of the community is mandated by the doctrine of the consent of the governed, and the right to local, community self-government.

Thus, the Borough Council hereby adopts this Ordinance, which establishes a Bill of Rights for the residents and communities of the Borough, bans commercial extraction of Marcellus Shale natural gas within the Borough of Wilkinsburg because that extraction cannot be achieved without violating the rights of residents and extraction corporations operating within the Borough of Wilkinsburg, and nullifies state laws, permits, and other authorizations which interfere with the rights secured by this Ordinance.

Section 2 – Definitions

- a) “Natural Gas” shall mean any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature or pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or natural gas.
- b) “Extraction” shall mean the digging or drilling of a well for the purposes of exploring for, developing or producing natural gas or other hydrocarbons.
- c) “Corporations” for purposes of this Ordinance, shall include any corporation, limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or under the laws of any country, and any other business entity that possesses state-conferred limited liability attributes for its owners, directors, officers, and/or managers.

Section 3 – Prohibitions and Corporate Legal Privileges

- a) It shall be unlawful for any corporation to engage in the extraction of natural gas within the Borough of Wilkinsburg, with the exception of gas wells installed and operating at the time of enactment of this Ordinance.
- b) No permit, license, privilege or charter issued by any state or federal agency, commission or board to any person or any corporation operating under a state charter, or any director, officer, owner, or manager of a corporation operating under a state charter, which would violate the prohibitions of this Ordinance or deprive any Borough resident(s), natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the Pennsylvania Constitution, the United States Constitution, or other laws, shall be deemed valid within the Borough of Wilkinsburg.

Section 4 – Enforcement

- a) Any person, corporation, or other entity that violates any prohibition of this Ordinance shall be guilty of a summary offense and, upon conviction thereof by a district justice, shall be sentenced to pay the maximum fine allowable under state law for that violation, and shall be imprisoned to the extent allowed by law. A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Ordinance found to be violated.
- b) The Borough of Wilkinsburg may also enforce this Ordinance through an action in equity brought in the Court of Common Pleas of Allegheny County. In such an action, the Borough of Wilkinsburg shall be entitled to recover all costs of litigation, including, without limitation, all costs and attorney’s fees expended by the Borough of Wilkinsburg.

Section 5 – Effective Date and Existing DEP Permitholders

This Ordinance shall be effective five (5) days after the date of enactment, at which point the Ordinance shall apply to any and all commercial extractions of natural gas in the Borough of Wilkinsburg regardless of the date of any applicable DEP permits.

Section 7 – Severability

Any part of this ordinance found to be illegal shall be treated as having been removed from the ordinance and the remainder of the ordinance shall remain in full force and effect.

Section 8 – Repealer

Any ordinance, or part thereof, in conflict herewith, is hereby repealed to the extent of said conflict.

**ORDAINED AND ENACTED BY THE COUNCIL OF THE BOROUGH OF WILKINSBURG
THIS 20th DAY OF JULY, 2011.**

ATTEST:

BOROUGH OF WILKINSBURG

Marla Marcinko
Borough Manager

By: _____
Eugenia Moore
Council President

EXAMINED AND APPROVED BY ME THIS 20th DAY OF JULY, 2011.

By: _____
John Thompson
Mayor