

**HAMILTONBAN TOWNSHIP
WELL ORDINANCE**

**AN ORDINANCE PROVIDING FOR THE SUPERVISION AND
REGULATION OF WATER WELLS IN HAMILTONBAN TOWNSHIP;
ESTABLISHING RULES AND REGULATIONS GOVERNING
CONSTRUCTION OF WATER SUPPLY WELLS; PROVIDING FOR A
WELL WATER STUDY AND PROVIDING PENALTIES FOR BREACH
OF THAT ORDINANCE AND REGULATION ESTABLISHED
HEREUNDER.**

**THIS ORDINANCE REPEALS WELL ORDINANCE 2006-01,
GEOHERMAL WELL RESOLUTION 2008-03, AND
WELL ORDINANCE 2014-01.**

Ordinance No. 2015-04

**Hamiltonban Township
Adams County, Pennsylvania**

Adopted October 6, 2015

ARTICLE I: GENERAL PROVISIONS

Section 100: Short Title

This Ordinance shall be known and may be cited as the “Hamiltonban Township Well Ordinance.”

Section 101: Purpose

The purpose of this ordinance is to:

- A. Promote and protect the health and welfare of the residents of Hamiltonban Township by conserving the water supply and protecting the quality, quantity, and suitability of groundwater resources;
- B. Secure and maintain the minimum required isolation distances between individual water supplies and potential sources of contamination;
- C. Set forth standards for the construction of wells and boreholes that are not otherwise regulated.

Section 102: Scope

This ordinance applies to the construction, alteration, and abandonment of all wells and boreholes that penetrate more than twenty (20) feet below grade (hereinafter “wells and/or boreholes”) including, but not limited to, domestic water supply wells, vertical closed-loop geothermal wells and/or boreholes, geotechnical borings, test borings, agricultural wells, irrigation wells, commercial wells, monitoring wells, and industrial wells. The following are exempt from this ordinance:

- A. Wells and/or boreholes associated with water supply wells for public water systems (defined by DEP as consisting of at least fifteen (15) service connections or regularly serving no fewer than twenty-five (25) individuals daily at least sixty (60) days out of the year).
- B. Horizontal geothermal systems constructed in pits, trenches, ditches, or in horizontal directional borings.
- C. Monitoring wells whose construction and operation is overseen by DEP.
- D. Borings/Boreholes including, but not limited to shot holes and exploratory borings, at a mining site associated with mining activities whose construction and operation are overseen by DEP.
- E. Utility trenches.

- F. Foundations, pilings, and other soil and/or bedrock penetrations which are an integral part of building construction.
- G. Normal routine maintenance and minor repairs to keep a well or borehole in good working order.
- H. Wells that are completed and fully operational as of the effective date of this ordinance.

Section 103: Municipal Liability Disclaimer

Approval granted under this Ordinance for a well or boring does not constitute any guarantee or warranty by Hamiltonban Township regarding the quality or quantity of water that may be obtained as a result of any well drilled. No responsibility or liability for the construction of any well or borehole shall be deemed to be placed upon Hamiltonban Township, or its officers, agents, or employees by virtue of the terms of this Ordinance. The Drilling Permit solely provides the approval to drill a well or boring at the site shown on the application in compliance with this Ordinance and the *Adams County Construction Standards and Material Specifications for Wells & Geothermal Systems* and does not provide any other guarantees, approval, or warranties to the construction of the well or boring, the success of finding a water source, or future productivity of the well.

Section 104: Repealer

Any other Hamiltonban Township ordinance provision or regulation inconsistent with any of the provisions of this Ordinance is hereby repealed to give this Ordinance full force and effect to the extent of the inconsistency only. Well Ordinances 2006-01, 2008-03, and 2014-01 are hereby repealed and Geothermal Well System Resolution 2008-26 is hereby repealed.

Section 105: Severability

In the event that a court of competent jurisdiction declares any section, clause, or provision of this Ordinance invalid, such decision shall not affect the validity of any of the remaining sections, clauses, or provisions of this Ordinance.

ARTICLE II: DEFINITIONS

Section 200: Interpretation

Unless otherwise expressly stated, the succeeding shall, for the purposes of this Ordinance, be interpreted in the following manner:

- A. Words used in the present tense also imply the future tense.

- B. Words used in the singular include the plural, and vice versa.
- C. Words of masculine gender include feminine gender, and vice versa.
- D. The words and abbreviation “includes,” “including,” “shall include,” “such as,” and “e.g.” are not limited to the specific example(s) given but are intended to extend the words or words’ meaning(s) to all other instances of like kind and character.
- E. The words “shall,” “required,” or “must” are mandatory; the words “may” and “should” are permissive.

Section 201: Definitions

Adams County Construction Standards and Material Specifications for Wells & Geothermal Systems - Those standards and material specifications adopted by the Adams County Conservation District Board of Directors, on June 25, 2013, as may be amended from time to time.

Alteration - Any action which necessitates entering a well with drilling tools; treating a well to increase yield, altering the physical structure or depth of the well; blasting; removal or replacement of well casing; conversion of well to another use (such as geothermal).

Boring/Borehole - A penetration of soil and/or rock that is augered, drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed which is generally cylindrical in shape and whose diameter is generally smaller than its depth of penetration.

Closed-Loop Geothermal - A type of geothermal heating and/or cooling system that utilizes a pressurized heat exchanger consisting of pipe, a circulating pump, and a water-source heat pump in which the heat transfer fluid is not exposed to the atmosphere. The heat transfer fluid is potable or beneficial reuse water and may have approved antifreeze added.

Zoning Officer - The person designated by the Board of Supervisors to enforce and administer the Ordinances and Codes of the Hamiltonban Township, including but not limited to this Well Ordinance.

DEP - Pennsylvania Department of Environmental Protection.

DCNR - Pennsylvania Department of Conservation and Natural Resources.

Geothermal - A system that uses a heat pump to extract heat from the earth in heating mode and/or reject heat into the earth in cooling mode.

Groundwater - Water within the earth below the water table.

Open-Loop Geothermal - A type of geothermal heating and/or cooling system that utilizes a water-supply well and a water pump to deliver ground water to a water-source heat pump. The discharge water from the water-source heat pump may be returned to the subsurface through a recharge well or infiltration bed, or may be discharged into a pond, lake, or stream. A spring may also be the source of the ground water supply.

Owner - Any person vested with sole or partial, legal or equitable ownership of the subject property.

Person - Shall mean any individual, partnership, company, association, corporation or other group or legal entity.

Water Supply Well - Any well that is constructed to remove or return water to the ground.

Well - Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, acquisition or monitoring of groundwater. This includes but is not limited to test wells, test borings, monitoring wells, geothermal wells, domestic wells irrigation wells, or commercial wells.

Well Driller - An individual or company that is permitted or licensed by the Commonwealth of Pennsylvania to drill wells in Pennsylvania.

ARTICLE III: WELL STANDARDS

Section 300: Well Drilling Permit Required

No person, firm, or corporation shall make a penetration of soil and, or rock that is augered, drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed that is regulated by this Ordinance until a Drilling Permit has been issued.

Section 301: Geothermal Wells

- A. All sections and provisions of this Ordinance shall apply to any and/or all phases or processes included in the construction of all wells developed for the purpose of utilization of geothermal resources. This section does not apply to horizontal geothermal as exempted from Section 102.B of this Ordinance.
- B. Geothermal wells shall only be constructed as part of Closed-Loop Geothermal systems. Open-Loop Geothermal systems are prohibited.

Section 302: Well Depth and Location Standards

- A. **Minimum Water Supply Well Depth:** The source of supply for a new water supply well shall be from a water bearing formation drawn from a depth of not less than twenty (20) feet below the ground surface.
- B. **Water Supply Well Construction in a Floodplain:** Wells shall not be located within a 100-year FEMA FIRM floodplain unless the well is fitted with a waterproof and airtight cap.
- C. **Minimum Set Back Distance:** Wells and boreholes regulated by this ordinance shall be located using the minimum setback distances to existing or potential sources of pollution, whether or not on applicant's or neighboring property, listed in Table 1.

Table 1: Minimum Well and Borehole Setback Distances

Minimum Setback From	Potable Water Supply Wells (ft)	Boreholes (ft)
Lakes, ponds, streams or other surface waters	25	25
Storm drains, retention basins, stabilization ponds or stormwater management facilities	25	25
Preparation area or storage area of hazardous spray materials, fertilizers, chemicals, or salt piles	100	100
Public or on lot gravity sewer lines and drains carrying domestic sewage or industrial waste	50	10 or according to easement
Existing water and forced sewer buried utilities and/or utility trenches	Outside existing easement or, if no easement exists, no less than 15 feet from the utility or trench centerline.	
Septic tanks, aerobic tanks or holding tanks	50	25
Subsurface sewage disposal systems, elevated sand mounds, other sewage disposal fields	100	25
Sewage seepage pits, cesspools	100	25
Farm silos, barnyards, privies and fuel tanks	100	25
Rainwater pits, ditches	25	10
Domestic spray irrigation sites, sewage sludge and septage disposal sites	100	25
Dedicated public right-of-way	20	10
Building foundations (except for buildings enclosing water wells, water well pumps, and/or any other source of pollution as approved)	20	10
Existing well		15

Section 303: Environmental Concerns

During all activities and/or phases related to the construction of any well including, but not limited to, site preparation, drilling/boring processes, fracturing operations (if needed), and any other completion operations needed to bring the well into service, the well driller shall use environmentally sound practices to contain any and all products or residues resulting from processes required for the well construction including, but not limited to soil, rock fragments or pulverized rock, brines, fluids and/or water. The containment measures shall be in accordance and compliance with all Federal, State, Local, PA DEP, or Adams County Conservation District regulations and/or guidelines.

Section 304: Construction Requirements

All well and borehole construction projects shall be constructed in accordance with the technical standards of the *Adams County Construction Standards and Material Specifications for Wells & Geothermal Systems*.

Section 305: Well Abandonment

Existing wells that are being replaced that are not grouted with approved grout or do not have a sanitary well cap shall be decommissioned or mitigated in accordance with the *Adams County Construction Standards and Material Specifications for Wells & Geothermal Systems*.

ARTICLE IV: ADMINISTRATIVE REQUIREMENTS

Section 400: Drilling Permits

- A. **Drilling Permit Application:** Applications may be completed by the property owner, the property owner's representative, or the well driller contracted by the property owner. The following information shall be included with Drilling Permit Applications:
1. Application Form.
 2. Site Layout: A site layout drawn reasonably to scale on letter size (8.5" x 11") paper, unless a larger sheet is necessary. Electronic submission of the site layout is permitted (Optional). The following information is depicted on the layout:
 - a. Property Lines.
 - b. Existing and Proposed Features.
 - c. Proposed well location.

- d. Setback Distances: The measurements of the distance from the proposed well to the features referenced in Table 1 of Section 302.C.
3. Waiver(s): If an applicant is requesting a waiver from any of the provisions of Section 302, the request shall state the grounds and facts of unreasonableness or hardship on which the request is based, the provision(s) of the Ordinance involved, and the minimum waiver necessary. Requests for waivers shall be in writing and shall become a part of the Drilling Permit Application.
4. Fee: The Drilling Permit Application will not be considered complete until the application fee is paid.

B. Municipal Action on Drilling Permit Application:

1. Action on Application: The Zoning Officer shall examine and take action on the Drilling Permit Application and revisions to the Application.
2. Action on Waiver(s): The Board of Supervisors may grant a waiver of requirements of one (1) or more provisions of Section 302 if the literal enforcement will exact undue hardship because of peculiar conditions, provided that such waiver will not be contrary to the public interest and that the purpose and intent of the Ordinance is observed.
 - a. The action shall be recorded in the minutes of the Board of Supervisors.
 - b. A copy of the action and any conditions of approval of will be transmitted to the applicant and attached to the application.
3. Time Limitation on Municipal Action: A Drilling Permit shall be approved or denied within seven (7) days of the filing date of a complete Application. Reasons for denial shall be in writing and given to the applicant.
4. Time Limitation on Incomplete Application: An incomplete Drilling Permit Application shall be deemed to have been abandoned after the passage of one hundred eighty (180) days after the date of filing, unless such Application has been pursued in good faith. The Zoning Officer is authorized to grant one or more extensions of time for additional periods not exceeding ninety (90) days each, if there is a justifiable cause to extend the application. The extension shall be requested in writing by the applicant.
5. Revisions to Application: The applicant may submit revisions to a submitted Drilling Permit Application. Where such revision is submitted during the review period established in Section 400.B., the time limitation shall be reset to the date of the revised submission. Where such revision is submitted for an application that has been formally approved or denied, the revision shall constitute a new submission, subject to all the administrative requirements of Article IV.

C. Applicant Responsibilities:

1. Commencement of Work: The applicant may initiate work in accordance with the Drilling permit application and the *Adams County Construction Standards and Material Specifications for Wells & Geothermal Systems* after the Drilling Permit has been issued and the Zoning Officer has conducted the preliminary inspection of the site.
2. Placement of Permit: The Drilling Permit or copy shall be kept on the site of the work until the completion of the project.
3. Complications: If complications related to drilling or field conditions arise and a new drilling location is required, the Zoning Officer shall be contacted. A revision to the application may be required.
4. Emergency Situations: In situations where there is an urgent need for water (ex. well runs dry or contaminated) and no other source of water is available, the property owner, at his own risk, may have the well drilled without going through the permit process beforehand. However, this provision does not alleviate the responsibility of the property owner to develop the well in accordance with Article III. The property owner, property owner's duly authorized representative, or the well driller is still responsible for obtaining a Drilling Permit, as described in Section 400, within seven (7) business days. New home construction with no prior source of water is not considered an emergency situation.

D. Validity of Drilling Permit: The issuance of a Drilling Permit shall not be construed to be a permit for, or an approval of, any violation of any provisions of this, or any other, Ordinance. The Zoning Officer is authorized to prevent use of the well or other borehole in violation of this Ordinance or of any other ordinances.

E. Expiration: Drilling Permits shall become invalid unless the authorized work is commenced within one hundred eighty (180) days after its issuance, or if the work is suspended or abandoned for a period of one hundred eighty (180) days after the time the work began. The Zoning Officer is authorized to grant, in writing, one or more extensions of time, for periods not more than ninety (90) days each. The extension shall be requested in writing by the applicant.

F. Suspension or Revocation: The Zoning Officer is authorized to suspend or revoke a Drilling Permit wherever the Drilling Permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this Ordinance, until the error is corrected.

Section 401: Building Permit

No application for a building permit for any domestic, commercial, industrial or agricultural structure, use or change of use which involves the construction of a "well" will be accepted and/or approved in the absence of a "well approval permit" issued by the Township's designated representative in accordance with the terms and conditions of this ordinance.

Section 402: Inspection / Reviews

- A. The Zoning Officer shall conduct all inspections required by this Ordinance.
- B. The issuance of the drilling permit authorizes the Zoning Officer to enter a property during daylight hours for the purpose of conducting an inspection. The presence of the landowner(s), owner's representative or the well driller at the well site is not required to witness the inspection process.
- C. Prior to any inspection(s) the site must be clearly staked-out or markers placed to indicate the location of all existing and proposed features that require setback distances on the property or on adjoining properties as found on Table 1 of Section 302.C. The property owner is responsible for identifying the location of any underground feature that requires a setback.
- D. A preliminary/pre-construction inspection shall be conducted at the site before any well or borehole drilling is commenced. At this inspection the following shall be determined:
 - 1. Consistency of approved Site Plan to site layout.
 - 2. Compliance with setback distances as found in Table 1 of Section 302.C.
 - 3. Consistency with any other conditions placed on Drilling Permit approval.
- E. A final inspection shall be conducted at the site upon the completion of the well drilling and other related processes. This inspection shall include:
 - 1. Determination of compliance with the issued Drilling Permit.
 - 2. Determination of compliance with all sections of this Ordinance and/or all other applicable Federal, State, County or Local Regulatory Acts.
 - 3. For water supply wells, confirmation that the well complies with Section 302.A & B, if applicable.
- F. Zoning Officer reserves the right to inspect the site at any time to determine if the well is in compliance with the Drilling Permit, the standards within this ordinance, and to observe the implementation of any of the standards listed in the *Adams County Construction Standards and Material Specifications for Wells & Geothermal Systems*.

Section 403: Completion Report

- A. Upon completion of the well, the applicant, the applicant's representative, or the well driller shall submit two (2) copies of *DCNR's Water Well Completion Report* (form 8700-FM-TGS0015 or equivalent), as may be amended, to the Zoning Officer and one (1) copy of the report to DCNR. By submitting this report, the well driller certifies that the well has been constructed in accordance with all applicable requirements of this Ordinance and the *Adams County Construction Standards and Material Specifications for Wells & Geothermal Systems*. The Zoning Officer will send a copy of the report to the homeowner (along with a copy of Penn State University's *Testing Your Drinking Water* fact sheet).
- B. Disclaimer: The acceptance of the Completion Report by the municipality does not in any way constitute a guarantee to the applicant, well driller, or property owner that the subject well will produce any quantity of water, that the quantity of water produced is sufficient for the intended/proposed need(s), that the subject well is pure and fit for consumption, or what mineral or contaminate may be found/dissolved within any water produced, either at the time of the issuance or at any given time in the future.

ARTICLE V: VIOLATIONS

- A. Upon discovery of any violation of this Ordinance, the Board of Supervisors may, at its option, forego any prosecution hereunder, and may grant to the owner a period seven (7) calendar days to comply with the provisions of this Ordinance. Upon failure of the owner to effect such compliance, the Board of Supervisors may initiate prosecution as hereinabove set forth.
- B. Any person who violates or permits the violation of this Ordinance, any amendments hereto, or any of the *Adams County Construction Standards and Material Specifications for Wells & Geothermal Systems* adopted pursuant of this Ordinance, shall, upon being found liable therefore in an action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, pay the fine set by the Board of Supervisors, plus all costs. The municipal solicitor may assume charge of the prosecution without the consent of the District Attorney as required under PA R. Crim. P. No. 83(c) (relating to trial in summary cases). Violations of this Ordinance shall be punishable by a fine of not less than \$100.00 or more than \$1,000.00. A separate offense shall arise for each day or portion thereof in which a violation is found to exist and/or for each section of the Ordinance, its amendments, or the *Adams County Construction Standards and Material Specifications for Wells & Geothermal Systems* hereto, which have been violated.

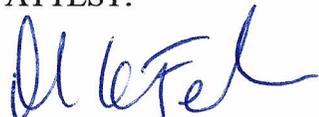
- C. In addition to any other remedies provided in this Ordinance, any violation thereof shall constitute a nuisance and may be abated or addressed by the Board of Supervisors by ~~either~~ seeking mitigation of the nuisance, by institution of a suit or suits in equity to restrain or prevent violations of the Ordinance by seeking legal relief from a court of competent jurisdiction.

ARTICLE VI: EFFECTIVE DATE

The Hamiltonban Township Well Ordinance (Ordinance No. 2015-04) shall become effective on October 6, 2015.

Enacted and Ordained into an Ordinance this 6th day of October, 2015.

ATTEST:

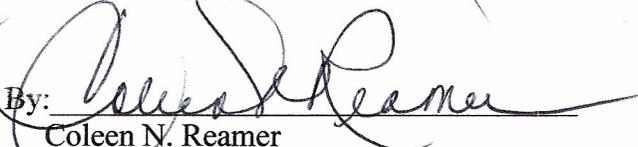


Deborah K. Feiler
Secretary/Treasurer

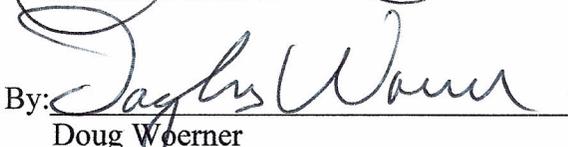
BOARD OF SUPERVISORS
HAMILTONBAN TOWNSHIP



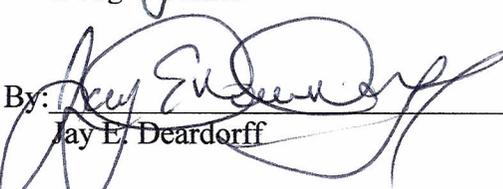
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Robert L. Gordon



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Doug Woerner



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