

**BOROUGH OF WHITE OAK  
ALLEGHENY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2018-18**

**AN ORDINANCE OF THE BOROUGH OF WHITE OAK, ALLEGHENY  
COUNTY, PENNSYLVANIA, CREATING PART THIRTEEN, TITLE  
EIGHT OF THE BOROUGH OF WHITE OAK'S ORDINANCES,  
GOVERNING OIL AND GAS OPERATIONS WITHIN THE MUNICIPAL  
LIMITS OF THE BOROUGH OF WHITE OAK.**

WHEREAS, Council for the Borough of White Oak is authorized by the Municipalities Planning Code to regulate land use within the Borough;

WHEREAS, Council for the Borough of White Oak as authorized by the Municipalities Planning Code may from time to time amend or revise its Ordinances;

WHEREAS, it is in the best interest of the Borough to address various zoning issues to include where activities will and will not be permitted and to have information available concerning the unique circumstances involving oil and gas exploration, development, production and processing taking place within the Borough;

WHEREAS, Council for the Borough of White Oak has properly advertised and held a public hearing on April 16, 2018 for the proposed Ordinance;

WHEREAS, Council for the Borough of White Oak wishes to adopt a new Title to Part Thirteen of the Borough's Planning and Zoning Code;

WHEREAS, Council for the Borough of White Oak adopts this Ordinance as Title Eight of the Planning and Zoning Code;

NOW, THEREFORE, be it ordained and enacted by the Council for the Borough of White Oak and it is hereby ordained and enacted as follows:

**PART THIRTEEN – TITLE EIGHT**

**Article 1396 – Purpose and Definitions.**

**1396.01        Purpose.**

It is hereby declared to be the purpose of this Ordinance to establish reasonable and uniform limitations, safeguards and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting, and storing of oil or gas and other substances produced in association with oil or gas within the Borough, as a special exception in all zoning districts of the Borough, to protect the health and general welfare of the public; minimize

potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources.

## **1396.02 Definitions.**

Applicant. Any person, owner, operator, partnership, company, corporation or other entity seeking to conduct oil and gas operations within the Borough.

Borough. The Borough of White Oak, Allegheny County, Pennsylvania.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Compressor. A device that raises the pressure of oil and natural gas and/or by products. Compressors are any devices that create a pressure differential to move or compress a liquid, vapor, or a gas. Any such device used alone or in a series to adequately move a liquid, vapor, or a gas is considered a compressor.

Deep Well. Any well drilled deeper than One Thousand (1000) feet below the surface of the earth.

Drilling. Digging or boring a new well for the purpose of exploring for, developing, or producing gas or other hydrocarbons, or for the purpose of injecting gas, water, or any other fluid or substance into the earth.

Drilling Equipment. The derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery, or equipment used or erected or maintained for use in connection with drilling.

Exploration. Geologic or geophysical activities, including seismic surveys, related to the search for gas or other subsurface hydrocarbons.

Gas. Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or gaseous components or vapors occurring in or derived from petroleum or natural gas.

Gas Well. Any well drilled, to be drilled, or used for the intended or actual production of natural gas.

Impoundment Area. Area used for storage of water or fluid substance used exclusively for oil or gas operations.

Oil. Hydrocarbons in liquid form at standard temperature and pressure. This term is also referred to as "petroleum."

Oil and Gas Operations. The term includes the following:

- A. Well locations assessment, including seismic operations, well site preparation, construction, drilling, hydraulic fracturing, and site restoration associated with an oil or gas well of any depth;
- B. Water and other fluid storage or impoundment area used exclusively for oil and gas operations;
- C. Construction, installation, use, maintenance, and repair of:
  - 1. Oil and gas pipelines;
  - 2. Compressor stations; and
  - 3. Processing plants or facilities performing equivalent functions.
- D. Construction, installation, use, maintenance, and repair of all equipment directly associated with activities specified in Subsection A, B, and C above to the extent that:
  - 1. The equipment is necessarily located at or immediately adjacent to a well site, impoundment area, oil and gas pipeline, natural gas compressor station or natural gas processing plant; and
  - 2. The activities are authorized and permitted under the authority of a federal or commonwealth agency

Oil or Gas Well Site. The location where facilities, structures, material and equipment, whether temporary or permanent, necessary for the preparation, construction, drilling, production or operation of an oil or gas well. This definition also includes exploratory wells.

Operator. For each well, the person that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the Operator, as herein defined, is not the lessee under an oil or gas lease of any premises affected by the provisions of this Article, then such lessee shall also be determined to be an operator. In the event that there is no oil or gas lease relating to any premises affected by this Article, the owner of the fee mineral estate in the premises shall be deemed an Operator.

Protected Use or Protected Structure. Any habitable structure, religious institution, public building, healthcare facility, school, camp, or public park. This term shall not apply to accessory buildings, garages, hangars, or storage buildings.

Shallow Well – Any well drilled from the surface of the earth to one thousand (1,000) feet below the surface of the earth.

Well Pad. The area of surface operations immediately surrounding the surface location of a well or wells. Such an area shall not include an access road to the well pad and shall not include the entirety of an oil or gas well site.

## **Article 1397 – Permitting Process**

### **1397.01 Permit.**

Any person or company desiring to engage in any oil or gas well site construction, drilling, exploring, hydraulic fracturing, and/ or site restoration associated with an oil or gas well of any depth; water impoundment and other fluid storage, and transportation used for such activities shall obtain a Permit from the Borough. Said desiring individual or company must adhere to the permit specifications of this section.

The permits in this section are in addition to and not in lieu of any permit which may be required by any other provision of the law or by any other governmental agency.

1. Pre-Permit Conference.

- a. Purpose. The Applicant is encouraged to meet with Borough Planning Commission officials and staff to determine the procedural and timing requirements of the application process. The purpose is to ensure the Applicant has all the necessary information prior to incurring substantial expense with regard to site plan and preparation.
- b. Process. A Pre-Permit Conference is encourage on part of the Applicant and only advisory on part of the Borough, therefore not binding the Borough to any commitments or approval of Applicant's plans.
- c. Emergency Response. At this time the Borough and the Applicant shall determine whether or not the Borough's emergency responders have secured adequate information and are properly trained to deal with any dangerous conditions that may result due to oil and gas development activities. See Section 7.

2. Permit Fee. Applicant must remit a Permit Fee set by the Borough Fee Resolution.

**1397.02 Permit Application.**

1. Applicant Information. The following information must be provided with the Applicant's application:

- a. Name and address of the Applicant, including the name and telephone of a local representative available twenty-four (24) hours a day;
- b. Name and address of the Operator, if different than the Applicant, including the name and telephone of a local representative available twenty-four (24) hours a day;
  - i. If Operator is different than Applicant, an agreement between the Applicant and the Operator must be provided.
- c. A certificate of liability insurance naming the Borough as an additional insured with respect to operations conducted in the Borough and showing liability insurance coverage covering commercial, personal injury, and general liability in the amounts not less than \$1,000,000 per person, \$10,000,000 per occurrence, and \$5,000,000 property damage;

2. Site information. The following information must be provided in Applicant's application:

- a. The exact description of the location of the proposed activity and verification that the site is not located in a wetland or flood plain;
- b. A plot plant of the site showing, a clearly marked scale, all property lines, all buildings, water wells, water sources, and right of ways;
- c. A map describing the manner and route for the transportation and delivery of equipment, machinery, water, chemicals and other materials used in the siting, drilling, construction, maintenance and operation of the oil or gas well site, impoundment area, compressor station, processing plant, or other oil and gas operations;
- d. A copy of the Operator/Applicant's Erosion and Sedimentation Plan;
- e. The name and address of each property owner of all property within two thousand five hundred (2,500) feet of the proposed site, and verification that all referenced property owners have been notified in writing of the oil or gas activity;

- i. Notice shall include a survey plat showing the location of the planned activities, general description of the planned operations and associated equipment, contact information for the Operator, Notice of the public hearing discussing the application.
- f. Name and address of each mineral, surface, and royalty owner;
  - i. Copies of any agreements amongst those mentioned in Section 4(2)(f).
- 3. Treatment Agreement. Applicant shall provide copies of agreement with appropriate treatment facilities with regards to the treatment of fracking water.
- 4. Construction and Drilling Plans. Applicant shall provide information regarding the timeline of construction and drilling operations for any proposed well.
- 5. Emergency Response Plans. Applicant shall provide verification that a copy of its Emergency Management Plan has been made available to the Borough and all emergency responders in the Borough, and upon any changes to said plan will be immediately made available to the Borough and emergency responders;
- 6. Governmental Permits. The Applicant must provide the Borough with a copy of the drilling permit issued by the Pennsylvania Department of Environmental Protection. If such permit has not been issued yet, the Applicant is to provide a copy of its application and supplement with the granted permit when received;
- 7. Multiple Well Permit. At the same time, and at the Applicant's option, the Applicant may submit an application for other wells it intends to drill in the future at the proposed site. Each additional well requires a separate Permit and a separate Permit Fee set by the Borough Fee Resolution.
- 8. The Applicant is responsible for all fees incurred by the Borough from its attorneys, engineers, and experts in reviewing the Applicant's application.

**1397.03 Permit Review and Award.**

- 1. Timing. The Borough Zoning Hearing Board, upon receiving a proper and complete application, shall review and render a decision in accordance to Part Thirteen §1309.07 of the Borough Zoning Code within forty-five (45) days.
- 2. Public Meeting. Prior to granting or denying a permit application the Zoning Hearing Board shall hold at least one public meeting regarding the application.
  - a. Said meeting may be part of a regularly scheduled Zoning Hearing Board meeting or a specially scheduled meeting of the Board.
  - b. Notice. Advertised notice of the meeting regarding the application shall meet the regulations of the Borough Code.
    - i. The topic of the oil and gas operations must be included in the advertisement.
- 3. Approval or denial must be provided in written form. A denial shall be accompanied by an explanation for its denial.
- 4. Applicant shall have thirty (30) days to amend its application and re-submit to the Borough for approval.
  - a. It shall be in the discretion of the Zoning Hearing Board to hold a public meeting regarding the re-submission of an application. However, in no instance shall issuing a decision regarding the permit take longer than thirty (30) days.



## **Article 1398 – Pre-Drilling**

### **1398.01 Pre-Drilling, Post-Hydraulic Fracturing, and Baseline Water Survey Requirements.**

1. Prior to drilling and post-hydraulic fracturing, the Operator shall be responsible for testing all existing water supplies (surface and groundwater) within One Thousand (1,000) feet of the surface location of the well. The purpose of this testing is to determine the baseline quality and quantity of the surface water and groundwater in the immediate vicinity of the proposed well site and to evaluate resultant changes that may occur or have an impact on the water supply of the site and surrounding area. If a landowner refuses to allow the Operator access to conduct a survey, the Operator shall show evidence of such refusal in accordance with PA Code Title 25, Chapter 78, Section 78.52(f). In addition, prior to drilling, the Operator will be required to drill a test well outside the limits of the well pad but no more than seven hundred fifty (750) feet from the well location to a depth that intersects all known or viable aquifers for the purposes of obtaining a baseline assessment of water quality in the vicinity of the drill site. All testing shall adhere to the following:
  - a. Pre-drilling testing results, both from existing water supplies and from the Operator-drilled test well, shall be submitted as part of the Applicant's Application.
  - b. Post-Hydraulic fracturing testing shall be completed no sooner than one (1) month after hydraulic fracturing activities have ceased and no later than two (2) months after hydraulic fracturing activities have ceased.
  - c. Post-Hydraulic fracturing test results, both from existing water supplies and from the Operator-drilled test well, shall be submitted to the Borough, PA DEP, and residents within 1000 feet of the surface location of the well in accordance with PA Code Title 25, Chapter 78, Section 78.52 "Predrilling or prealteration survey" within ten (10) days of their receipt.
  - d. The Operator shall be responsible for all costs associated with drilling and testing and testing shall be done by an independent state-certified water testing laboratory agreed upon by the Borough.
  - e. Water Quantity Test – The Operator shall hire a consultant (hydrologist) agreed upon by the Borough to conduct water quantity testing. The consultant shall submit a pre-testing and a pre-drilling plan to be approved by the Borough. The consultant shall test for gallons per minute (gpm) flow rates, yield, groundwater levels, and other pertinent information for all viable aquifer zones via draw down tests or other suitable means. The consultant shall measure and record flow rates in gallons per minute (gpm) for all surface water sources. Groundwater levels and other pertinent information via draw down tests or other suitable means shall be measured from all available wells. Also, GPS coordinate information shall be recorded for all surface water and groundwater sites. The results shall be certified by the hydrologist.

- f. Water Quality Test - Operators shall test for the following list of parameters for all surface water and groundwater. The list is not exhaustive and the Borough reserves the right to add additional parameters:

<b>Analyte</b>				
<b>Inorganic</b>	<b>Trace Metal</b>	<b>Organic</b>	<b>Microbiology</b>	<b>Other</b>
Alkalinity	Barium	Ethane	Total Coliform/E. Coli	Volatile Organic Compounds
Chloride	Calcium	Methane		Detergents (MBAS)
Conductivity	Iron			Total Organic Carbon
Hardness	Magnesium			Nitrate
Oil and Grease	Manganese			Radionuclides gross alpha, radium
Ph	Potassium			Radon
Sulfate	Sodium			Lead
Total Dissolved Solids	Strontium			
Residue – Filterable	Arsenic			
Total Suspended Solids				
Residue – Non Filterable				

**1398.02** Pre-Drilling and Post-Hydraulic Soil Survey Requirements - Prior to drilling and post-hydraulic fracturing, the Operator shall be responsible for testing soil conditions within the area of the drill site but no greater than five hundred (500) feet from the surface location of the well. The purpose of testing is to determine the baseline soil conditions in the immediate vicinity of the proposed well site and evaluate resultant changes that may occur or have an impact on the soils of the site and surrounding area.

1. Pre-drilling testing results shall be submitted as part of the Applicant's application.
2. Post-hydraulic fracturing testing shall be completed no sooner than one (1) month after hydraulic fracturing activities have ceased and no later than two (2) months after hydraulic fracturing activities have ceased.
3. The results shall be submitted to the Borough and PA DEP within ten (10) days of their receipt.
4. The Operator shall be responsible for all costs associated with sample collection and testing and testing shall be done by an independent state-certified testing laboratory agreed upon by the Borough.
5. Operators shall test for the following list of parameters for soils. The list is not exhaustive and the Borough reserves the right to add additional parameters:

<b>Inorganic</b>	<b>Trace Metal</b>	<b>Microbiology</b>	<b>Other</b>
Alkalinity	Barium	Total Coliform/E. Coli	Volatile Organic Compounds
Chloride	Calcium		Nitrate
Hardness	Iron		Radionuclides gross alpha,

			radium
Oil and Grease	Magnesium		Lead
Ph	Manganese		
Sulfate	<b>Potassium</b>		
Residue – Filterable	Sodium		
Residue – Non Filterable	Strontium		
	Arsenic		

## Article 1399 – Site Regulations

### 1399.01 Oil and Gas Operations Site Regulations.

In addition to all Federal and State laws regulating oil and gas operations, the Operator shall adhere to the following:

#### 1. Distance and Setbacks:

- a. Well Pad. No Shallow Well may be drilled within five hundred (500) feet and no Deep Well may be drilled within one thousand (1,000) feet from any Protected Structure/Use;
  - i. This set back may be reduced to three hundred (300) feet, but no less, provided a signed affidavit or agreement from any affected owner of the Protected Structure/Use is attached to the Application for an Oil or Gas Well permit.
  - ii. Measurement shall be taken from proposed/actual well bore in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building or boundary line.
- b. Equipment. No portion of any drilling device, equipment, or facility of any kind, including storage, shall be closer than five hundred (500) feet to an adjacent property line, subject to Section 6(1)(a)(i);
  - i. Measurement shall be taken from well-site property line.
- c. Access Roads and Queue Area.
  - i. Any newly established private easement/roadway constructed on the parcel containing the well site shall be located at least two hundred feet from any property lines, unless written consent is obtained from the adjoining property owner;
  - ii. The access road shall be paved for the first fifty (50) feet and be constructed with an additional one hundred fifty (150) feet of crushed limestone in a manner that reasonably minimizes water, sediment, or debris carried onto any public road and prevents dust and mud.
  - iii. There shall be a queue area for trucks and/or those seeking to enter the well site as to prevent them from blocking any public roadway.
  - iv. Access Roads and Queue Areas shall also meet the regulations of the Section 1391.04 of the Borough's Planning and Zoning Code and Appendix I of the same.

#### 2. Security and Fencing.

- a. During construction of the oil or gas site operations, there must be temporary security fencing of at least six (6) feet in height around the perimeter of the site,



unless adequate levels of manned twenty-four-hour on-site supervision is provided.

- b. A secured entrance gate on the access road shall be required and all gates are to be kept locked when the operator or its employees are not on the premises.
- c. All storage tanks, separation facilities, or other mechanical or production equipment on the operation site shall be completely enclosed by a permanent chain link fence. Standards for the chain link fence and secured gate are as follows:
  - i. At least six (6) feet in height;
  - ii. Support posts embedded in concrete;
  - iii. All access points shall have lockable gates;
  - iv. Fence Screening – all fencing shall be equipped with interlocking opaque slats, mesh, or other screening material of uniform color.
- d. Warning signs shall be placed as appropriate on the fencing surrounding the oil or gas operations providing notice of the potential dangers and the contact information in case of an emergency.
- e. Operator shall make best efforts to maintain the natural landscaping surrounding the perimeter.

### 3. Operating Times:

- a. Site preparation and pre-production. All site preparation and pre-production activities on the site, as well as access road maintenance, site reclamation and other on-going ancillary activities shall be permissible Monday through Saturday between the hours of 7:00 a.m. and 9:00 p.m., and on Sunday between the hours of 9:00 a.m. and 4:00 p.m., or as otherwise authorized by the Borough.
- b. Production. Oil and Gas operations may take place between the hours of 7:00 a.m. and 9:00 p.m. This rule does not apply to subterranean operations or the drilling of wells and the operation of compressors and processing plants.

### 4. Noise.

- a. No operation or activity shall cause or create noise in excess of the sound levels prescribed in Section 1371.15(c)
  - i. The following activities shall be exempt from the noise regulations:
    - 1) Noises emanating from construction or maintenance activities between 7:00 a.m. and 9:00 p.m.;
    - 2) Noise caused by safety signals, warning devices and other emergency-related activities or uses.
- b. Exemption. Owner/Operator may be exempt from the standards in §1399.01(4)(a) during the drilling stage or at the oil or gas well site, compressor station, or processing plant or other oil or gas operation for good cause shown and upon written agreement between the Owner/Operator and the Borough.
- c. Complaint:
  - i. If a complaint received by the Borough from any person using a Protected Structure for any lawful purpose, within one thousand (1,000) feet from well site or other oil and gas operations regarding noise generated, the Operator shall, within seventy-two (72) hours of receipt of the complaint from the Borough, continuously monitor for a forty-eight (48) hour period at a point which is the closer to the complainant's building of:

- 1) The complainant's Protected Structure property line nearest to the well site or equipment generating the noise, or
  - 2) One hundred (100) feet from the Protected Structure.
- ii. Should monitoring reveal any noise violation the Operator shall mitigate using appropriate sound barriers.
- iii. If the Operator engages in any noise testing as required by this Ordinance, he shall provide the Borough with the results within ten (10) business days of the Operator's receipt of those results.
5. Lighting. Recognizing that adequate and appropriate lighting is essential to the safety of those involved in the development of oil and gas, the Operator shall take steps, to the extent practicable, to direct the site lighting downward and inward toward the drillsite, wellhead, or other area being developed so as to attempt to minimize glare on public roads and adjacent buildings within three hundred (300) feet of the drillsite, wellhead, or other area being developed.
6. On Site workers. Bunk houses, trailers, etc. for site workers are not permitted at any oil or gas operations site within the Borough. The Borough acknowledges that certain supervisory personnel (not to exceed six individuals) are required for safety reasons to be present at the site on a continuous basis during certain operations, and resting accommodations for such supervisory personnel are not affected by the foregoing prohibition. Prior to utilizing any such accommodations, the owner/operator shall provide to the Borough a list of the job titles which constitute supervisory personnel.
7. Clean up and Maintenance.
  - a. Cleanup after well servicing. The Operator has sixty (60) days to clean the site, complete restoration activities, and repair all damage to public property after oil or gas operations have ceased.
  - b. Clean up after spills, leaks, and malfunctions. After any spill, leak or malfunction, the Operator shall remove or cause to be removed to the satisfaction of the fire chief and appropriate environmental agency officer all waste materials from any public or private property affected by such spill, leak, or malfunction. Clean up operations must begin immediately.
8. End of Operations. When an Operator decides to cease operations it must follow and comply with all applicable state and federal law.

## **Article 1400 – Administrative**

### **1400.01 Emergency Response/Personnel Training.**

Prior to beginning any Oil and Gas Operations, the Operator shall ascertain whether the Borough's First Responders have adequate training to deal with potential dangerous conditions that may result from the development activities. First responders shall have a minimum of five hours of training per year. Upon request of the Borough, the Operator shall make available once per year, at its sole cost and expense, and with thirty (30) days notice, an appropriate training program of up to five hours for first responders.

### **1400.02 Enforcement and Penalties.**

1. Any person, partnership, corporation, or individual or entity who performs work at their direction who or which has violated or permitted the violation of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the

Borough before, pay a judgment of not more than Five Hundred Dollars (\$500.00), plus all court costs, including reasonable attorney's fees incurred by the Borough as a result thereof. No judgment shall commence or be composed, levied or payable until the date of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeal the judgment, the Borough may enforce the 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 Borough are hereby authorized to issue a cease and desist notice and/or to seek equitable relief, including injunction, to enforce compliance herewith. No bond will be required if injunctive relief is sought by the Borough. Any of the previously mentioned who or which violated this Ordinance shall also be responsible for the Borough's attorney's fees, engineering fees, expert fees and court costs associated with enforcement.

2. In addition to Section 8(1), if found in violation of this Ordinance, the Borough at its discretion, may suspend or revoke a permit under this Ordinance or issue a citation regarding said violation.
  - a. During a period of suspension or if permit is revoked, no oil or gas operations shall be conducted.
  - b. The Operator, within ten (10) days, may appeal any decision by the Borough to suspend or revoke its permit to the Court of Common Pleas of Allegheny County.

#### **1400.03      Constitutionality.**

If a court of competent jurisdiction holds any individual provision of this Ordinance or the application of any individual provision of this Ordinance to any circumstance to be illegal or unconstitutional, the other provisions of this Ordinance and the application of such provisions to other circumstances shall remain in full, force, and effect. The intention of the Borough Council is that the provisions of this Ordinance shall be severable and that this Ordinance would have been adopted if any such illegal or unconstitutional provision had not been included.

#### **1400.04      Repealer.**

Any ordinances previously enacted by the Borough that are in conflict with this Ordinance are hereby repealed and replaced with this Ordinance. Specifically, Title Three Section 1325.02(b)(1)(F).1-9 is repealed and replaced with this Ordinance.

#### **1400.05      Inclusion.**

This Ordinance shall be included in the Borough of White Oak Zoning Ordinance as Part Thirteen, Title Eight.

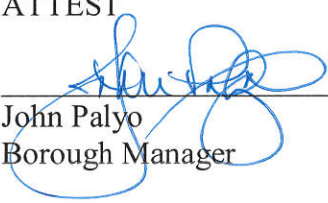
#### **1400.06      Effective Date.**

This Ordinance shall take effect upon signing.

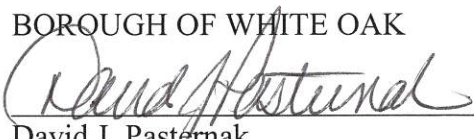
**[SIGNATURE PAGE TO FOLLOW]**


ORDAINED AND ENACTED by the Council for the Borough of White Oak, Allegheny County, Pennsylvania this 16<sup>th</sup> day of April, 2018.

ATTEST

  
\_\_\_\_\_  
John Palyo  
Borough Manager

BOROUGH OF WHITE OAK

  
\_\_\_\_\_  
David J. Pasternak  
President of Council

  
\_\_\_\_\_  
Ina Jean Marton  
Mayor