

### **Section 1.01 Title and Purpose.**

This Charter and all amendments hereto shall constitute the form of government for the Township of Ferguson. Among the purposes of this Charter are: to provide municipal services and facilities with the highest degree of efficiency and economy; to establish a supervisor-manager form of government; to secure all possible municipal home rule and to provide for the health, safety and well-being of the citizens.

### **Section 1.02 Boundaries.**

The boundaries of the Township shall be the actual boundaries of the Township at the time this Charter takes effect and as they may be lawfully changed thereafter.

### **Section 1.03 Name of Municipality.**

The Township of Ferguson shall continue to be a municipal subdivision under its present name, "Township of Ferguson." As used in this Charter, the word "Township" shall mean the Township of Ferguson in Centre County, Pennsylvania.

### **Section 1.04 Powers and Duties.**

- A. Powers.** The Township has and may exercise any power, and may perform any function not denied by the Constitution of the United States, the Constitution of Pennsylvania, by this Charter, or by the General Assembly, at any time.
- B. Construction.** The powers of the Township under this Charter shall be construed broadly in favor of the Township, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power stated in this Article. All possible powers of the Township, except as limited above, are to be considered as if specifically and individually set forth in this Article, whether such powers are presently available to the Township or may hereafter from time to time become available.
- C. Residual Powers in the Township Board.** All powers of the Township, including any such power which may hereafter be conferred on the Township by amendment of the Constitution of the United States, or of the Constitution of Pennsylvania, or of this Charter, or by Act of the General Assembly, unless otherwise specifically set forth in this Charter, shall be vested in the Township Board. The Board of Supervisors shall be elected, shall organize, and shall function as provided in this Charter.
- D. Regional Cooperation.** The Board of Supervisors shall be empowered to enter into and withdraw from cooperative programs with other municipalities. The Board of Supervisors is urged to participate in regional and intermunicipal cooperation whenever efficiency and economics of services can be improved.

### **Section 1.05 Ferguson Township Community Bill of Rights.**

- A. Right to Pure Water.** All residents, natural communities and ecosystems in Ferguson Township possess a fundamental and inalienable right to sustainably access, use, consume, and preserve water drawn from natural water cycles that provide pure water necessary to sustain life within the Township.
- B. Right to Clean Air.** All residents, natural communities and ecosystems in Ferguson Township possess a fundamental and inalienable right to breathe air untainted by toxins, carcinogens, particulates and other substances known to cause harm to health.
- C. Right to Peaceful Enjoyment of Home.** Residents of Ferguson Township possess a fundamental and inalienable right to the peaceful enjoyment of their homes, free from interference, intrusion, nuisances or impediments to access and occupation.
- D. Rights of Natural Communities.** Natural communities and ecosystems, including, but not limited to, wetlands, streams, rivers, aquifers, and other water systems possess inalienable and fundamental rights to exist and flourish within Ferguson Township. Residents of the Township shall possess legal standing to enforce those rights on behalf of those natural communities and ecosystems.
- E. Right to a Sustainable Energy Future.** All residents in Ferguson Township possess a right to a sustainable energy future, which includes, but is not limited to, the development, production, and use of energy from renewable and sustainable fuel

sources.

- F. Right to Self-Government.** All residents of Ferguson Township possess the fundamental and inalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them.
- G. Rights of People as Sovereign.** Ferguson Township shall be the governing authority responsible to, and governed by, the residents of the Township. Use of the "Township of Ferguson" municipal corporation by the sovereign people of the Township to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to a municipal corporation that is subordinate to them in all respects at all times. The people at all times enjoy and retain an inalienable and indefeasible right to self-governance in the community where they reside.
- H. Rights in the Pennsylvania Declaration of Rights.** Every right enumerated in the Pennsylvania Constitution, including, but not limited to, the right to clean air, pure water, and the preservation of the natural, scenic, historic and esthetic values of the environment, is hereby reaffirmed and declared self-executing, as stated in Article 1, Section 25, wherein it is declared that the entire Pennsylvania Declaration of Rights is "excepted out of the general powers of government and shall forever remain inviolate."
- I. Rights as Self-Executing.** All rights delineated and secured by this Charter shall be self-executing and these rights shall be enforceable against corporations and governmental entities.
- J. Securing and Protecting Rights.** To further secure and protect the rights enumerated by the Bill of Rights:
1. It shall be unlawful for any person or corporation to engage in the extraction of natural gas within Ferguson Township, with the exception of gas wells installed and operating at the time of enactment of this Charter provision, provided that the extraction of gas from those existing wells does not involve any practice or process not previously used for the extraction of gas from those wells.
  2. It shall be unlawful for any person or corporation, or any director, officer, owner, or manager of a corporation to use a corporation, to deposit, store or transport waste water, "produced" water, "frack" water, "flow-back," brine or other materials or by-products from unconventional development of natural gas from shale formations, within, upon or through the land, air or waters of Ferguson Township.
  3. It shall be unlawful for any person or corporation, or any director, officer, owner, or manager of a corporation to use a corporation, to engage in the creation of fossil fuel, nuclear or other non-sustainable energy production and delivery infrastructure; such as pipelines, processing facilities, compressors, or storage and transportation facilities of any sort that would violate the right to a sustainable energy future for residents of Ferguson Township.
  4. Corporations and persons using corporations to engage in natural gas extraction in a neighboring municipality, county or State shall be strictly liable for all harms caused to natural water sources, ecosystems, and human and natural communities within Ferguson Township.
  5. Corporations in violation of the prohibition against natural gas extraction, or seeking to engage in natural gas extraction shall not have the rights of "persons" afforded by the United States and Pennsylvania Constitutions, nor shall those corporations be afforded the protections of the commerce or contracts clauses within the United States Constitution or corresponding sections of the Pennsylvania Constitution.
  6. Corporations engaged in the extraction of natural gas shall not possess the authority or power to enforce State or Federal preemptive law against the people of Ferguson Township, or to challenge or overturn municipal ordinances or Charter provisions adopted by the Ferguson Township Council.
  7. 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 Charter provision or deprive any Township resident(s), natural community, or ecosystem of any rights, privileges, or immunities secured by this Charter, the Pennsylvania Constitution, the United States Constitution, or other laws, shall be deemed valid within Ferguson Township.

8. The provisions of this Section are severable. If any court of competent jurisdiction decides that any subsection, clause, sentence, part, or provision of this Section is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining subsections, clauses, sentences, parts, or provisions of this Bill of Rights and its prohibitions. The People of Ferguson Township hereby declare that in the event of such a decision, and the determination that the court's ruling is legitimate, they would have enacted this amendment even without the subsection, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional. All inconsistent provisions of prior ordinances and zoning ordinances adopted at any time by Ferguson Township are hereby held in abeyance, but shall take immediate effect in the event this Bill of Rights and its protective prohibitions are overturned.

(Added by petition and referendum of the electors pursuant to the Home Rule Charter and Optional Plans Law, 53 Pa.C.S.A. § 2901 et seq., and approved by the electors at the General Election held November 6, 2012)