

OFFICIAL
TOWNSHIP OF OHIO
ORDINANCE NO. 298

AN ORDINANCE OF THE TOWNSHIP OF OHIO, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING CHAPTER 132, SECTION 132-56, OF THE OHIO TOWNSHIP ZONING CODE, BY ADDING PROVISIONS FOR OIL AND GAS DRILLING OPERATIONS AS A CONDITIONAL USE IN THE C-2 (COMMERCIAL BUSINESS DISTRICT); OC (OFFICE COMMERCIAL DISTRICT); AND LI (LIGHT INDUSTRIAL DISTRICT), AND BY AMENDING SECTION 132-124(A-C), ENFORCEMENT REMEDIES.

WHEREAS, the Board of Supervisors of the Township of Ohio have adopted a zoning ordinance to encourage the most appropriate use of land throughout the Township and to promote the safety, health, convenience and general welfare of its residents; and

WHEREAS, the Board of Supervisors desires to promote the reasonable mining of natural resources and create employment related to that use; and

WHEREAS, the Board of Supervisors desires that all mining operations, including the exploration and production of oil and gas wells, adhere to appropriate safety and health standards, including, but not limited to, the International Fire Code, latest edition or its successor code; and

WHEREAS, the Pennsylvania Oil and Gas Act, 58 PS. § 601.101, et seq. (the "Oil and Gas Act") and the Pennsylvania Department of Environmental Protection (DEP) and other applicable law regulate features of oil and gas well exploration, production and operations; however, the Township may adopt local ordinances pursuant to the Municipalities Planning Code and the Flood Plain Management Act that impose conditions, requirements or limitations on features of oil and gas well operations that are not otherwise provided for pursuant to applicable law; and

WHEREAS, the Board of Supervisors has worked with the Township Planning Commission to prepare these zoning amendments, regulating oil and gas well operations with the Townships, and have submitted the same to the Allegheny County Department of Economic Development for its review; and

WHEREAS, the Township Supervisors have properly advertised this Ordinance, and have scheduled a public hearing prior to a vote on the adoption of said proposed zoning amendments; and

WHEREAS, after consideration of the public's comments, and the recommendations of the various agencies, it has been determined that the amendments are appropriate.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township of Ohio, Allegheny County, Pennsylvania, as follows:

Section 1:

A new Section, 132-56, Oil and Gas Development, is added to the Township of Ohio Zoning Code, replacing the current Section in its entirety as follows:

(a). Purpose.

It is hereby declared to be the purpose of this chapter is to declare Oil and Gas Development a use that may be authorized as a Conditional Use in the following Zoning Districts of the Township: C-2 (Commercial Business District); OC (Office Commercial District); and L1 (Light Industrial District).

The Township of Ohio recognizes that the regulation of Oil and Gas Development is the primary responsibility of the regulatory agencies of the Commonwealth of Pennsylvania, but that the Township maintains its zoning powers as set forth in the Municipalities Planning Code ("MPC"), and through the Township of Ohio Zoning Ordinance. It is in the Township's best interest to have information concerning oil and gas exploration, development, and production taking place within the Township, and to ensure certain security and safety measures related to oil and gas well drilling are in place.

(b). Definitions.

As used in this Ordinance, the following terms shall be interpreted or defined as follows:

Oil and Gas Development or Development: The well site preparation, well site construction, drilling, hydraulic fracturing, and/or site restoration associated with an Oil and Gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of Oil and Gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of Oil and Gas other than Natural Gas Compressor Stations and Natural Gas Processing Plants or facilities performing the equivalent functions that operate as midstream facilities.

Township: Township of Ohio, Allegheny County, Pennsylvania.

Oil and Gas: Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane and/or any other constituents or similar substances that are produced by drilling a well of any depth into, through, and below the surface of the earth.

Operator: Any person, partnership, company, corporation and its subcontractors and agents who have an interest in real estate for the purpose of exploring or drilling for, producing, or transporting Oil or Gas.

Protected Structure: Any structure capable of occupancy including but not limited to a residence, business, school, religious institution, swimming pool or other public building, including any area within said zoning districts that are designated for recreational use, located within 1,500 feet of the surface location of a well, natural gas compressor station or natural gas processing plant, that may be impacted by noise generated from drilling or hydraulic fracturing activity at a Well Site. The term shall not include any structure owned by an oil and gas lessor who has signed a lease with the Operator granting surface rights to drill the subject well or whose owner or occupants have signed a waiver relieving the Operator from implementation of the measures established in Paragraph 15 of this Ordinance for the owners or occupants' benefit

Well Site: A graded pad designed and constructed for the drilling of one or more Oil and Gas wells.

Natural Gas Compressor Station: A facility designed and constructed to compress natural gas that originates from an Oil and Gas well or collection of such wells operating as a midstream facility for delivery of Oil and Gas to a transmission pipeline, distribution pipeline, Natural Gas Processing Plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

Natural Gas Processing Plant: A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets but not including facilities or equipment that are/is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from natural gas.

(c). Express Criteria.

The Township of Ohio hereby declares that Oil and Gas Development may be authorized as a Conditional Use in the C-2 (Commercial Business District), OC (Office Commercial District), or L1 (Light Industrial District) in the Township, in accordance with the following express criteria and the imposition of any other reasonable conditions and safeguards that the Board of Supervisors deems necessary to protect the health, safety and welfare of the residents of the Township:

1. Operator shall comply with any generally applicable bonding and permitting requirements for Township roads. Any existing Township roads, damaged or worsened in condition by the Operator as determined by the Township shall be repaired by the Operator as required by the Township. Funds for such repairs shall be held either in escrow, bond or letter of credit on an estimate determined by the Township after inspection by the Township of existing conditions of roads, which may be affected by the Operator. If no repairs are necessary, all funds earmarked for existing road/drainage repairs shall be returned to the Operator.
2. Operator shall take the necessary safeguards to ensure that the Township roads utilized remain free of dirt, mud and debris resulting from Development activities and/or shall ensure such roads are immediately swept or cleaned if dirt, mud and debris occur.
3. Operator shall take all necessary precautions to ensure the safety of persons in areas established for road crossing and/or adjacent to roadways (for example, persons waiting for public or school transportation). Where necessary and permitted, during periods of anticipated heavy or frequent truck traffic associated with Development, Operator will provide flagmen to ensure the safety of children at or near schools or school bus stops and include adequate signs and/or other warning measures for truck traffic and vehicular traffic.
4. Operator shall not clear brush or trees by way of burning, and shall chip, grind or remove all tree stumps from properties it clears for Development purposes.
5. Prior to Development, Operator shall provide to the Township's Police Department and Fire Company ("First Responders") and to the Township's Zoning Officer, a copy of its Emergency Operations Plan ("EOP"). If the EOP requires the availability and/or utilization of special equipment or supplies particular to the hazards or conditions addressed in the EOP, the Township may require that Operator reimburse the Township for the cost of procurement of such special equipment or supplies.
6. Before drilling, the Operator shall ascertain whether the Township's First Responders have secured adequate information to deal with any potential dangerous conditions that may result due to Development activities. First Responders shall have on-site orientation and be provided adequate awareness information. Upon request from the Township, Operator will, prior to drilling of an

Oil and Gas well, make available with at least thirty (30) days' notice, at its sole cost and expense, an appropriate site orientation for First Responders. Such site orientation shall be made available at least annually during the period when the Operator anticipates drilling activities in the Township.

7. Operator shall take the necessary safeguards to ensure appropriate dust control measures are in place.
8. Operator shall locate its temporary and permanent operations, when possible, so as to minimize interference with Township residents' enjoyment of their property and future Township development activities.
9. Recognizing that adequate and appropriate lighting is essential to the safety of those involved in the Development of Oil and Gas, the Operator shall direct site lighting downward and inward toward the drillsite, wellhead, or other area being developed so as to minimize glare on public roads and adjacent buildings within three hundred (300) feet of the drillsite, wellhead, or other area being developed.
10. Oil and Gas development as defined in this Ordinance shall be at least 1,500 feet from any protected structure as defined herein. At least two (2) weeks prior to drilling an Oil and Gas well or multiple Oil and Gas wells at a location, the Operator shall provide the following information to each property owner within one thousand five hundred (1,500) feet of the planned surface location of the well(s):
 - a. A copy of the well survey plat showing the location(s) of the planned well(s);
 - b. A general description of the planned operations at the planned well(s) and associated equipment used in the Development of the well(s);
 - c. The contact information for the Operator; and
 - d. The availability of the Operator to hold a meeting with such property owner to present Operator's plans for the well(s) and to allow for questions and answers. The meeting(s) shall be held prior to Well Site construction.
11. Upon the filing of an Application for Conditional Use under this Section, Operator shall provide the following:

- a. A map showing the planned access route to the Well Sites on public roads;
 - b. Information on the status of road bonding;
 - c. The Operator's Erosion & Sedimentation Plan;
 - d. The well survey plat showing the planned surface location(s) of the well(s); and
 - e. The contact information for the Operator.
12. At last ten (10) days prior to commencement of drilling, the Operator shall provide to the Township Zoning Officer a copy of the drilling permit issued by the Pennsylvania Department of Environmental Protection ("DEP"). Operator shall also provide a copy of the recorded subdivision plan or land development plan, as appropriate, indicating the size and location of the proposed drilling area.
13. In addition to the requirements in Subsections 1 through 12 above, for any Oil and Gas well or Natural Gas Compression or Processing Plant:
 - a. Install temporary safety fencing, at least six (6) feet in height, around drilling and hydraulic fracturing equipment and install permanent fall protection fencing meeting OSHA requirements around any pits that contain or could contain water or other liquids at depths greater than two feet;
 - b. Install warning signs providing notice of the potential dangers at the Well Site;
 - c. Provide at least one security guard at all times (24 hours/day, 7 days/week) when a drilling rig or hydraulic fracturing equipment is on the Well Site.
14. Prior to the commencement of drilling activities, no construction activities involving excavation of, alteration to, or repair work on any access road or Well Site shall be performed during the hours of 10:00 p.m. to 6:00 a.m.
15. The Township recognizes and acknowledges that Oil and Gas Development is accompanied by inherent noise. However, the

Operator shall take the following steps to minimize, to the extent practicable, the noise resulting from the Development:

- a. Prior to drilling of an Oil and Gas well, the Operator shall establish a continuous seventy-two (72)-hour ambient noise level at the nearest Protected Structure property line or one hundred (100) feet from the nearest Protected Structure (as measured to the closest exterior point of the building), whichever is closer to the Protected Structure or, alternatively, and in lieu of establishing the above seventy-two (72)-hour ambient noise level the Operator may assume and use, for the purposes of compliance with this Ordinance, a default ambient noise level of 55 dBA. The sound level meter used in conducting any evaluation shall meet the American National Standard Institute's standard for sound meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data;
- b. The Operator shall provide documentation of any established, seventy-two (72)-hour evaluation relied upon to establish an ambient noise level greater than 55 dBA to the Township's Zoning Officer within three (3) business days of such a request from the Zoning Officer;
- c. The noise generated during construction, drilling and hydraulic fracturing activities when measured at the nearest Protected Structure property line or one hundred (100) feet front the nearest Protected Structure (as measured to the closest exterior point of the building), whichever is closer to the Protected Structure, shall not exceed the average ambient noise level (as determined by the seventy-two (72) hour evaluation) or default level, whichever is higher:
 - i. during drilling activities by more than seven (7) decibels during the hours of 6:00 a.m. to 10:00 p.m;
 - ii. during drilling activities by more than five (5) decibels during the hours of 10:00 p.m. to 6:00 a.m.;
or
 - iii. by more than ten (10) decibels during construction, hydraulic fracturing operations.

The Operator shall inform the Township of which level (average ambient noise level or default level) is being used;

- d. Adjustments to the foregoing noise limits may be permitted in accordance with the following:

Permitted Increase (dBA)	Duration of Increase (minutes)*
5	15
10	5
15	1
20	1

*Cumulative minutes during one hour;

- e. If a complaint is received by the Township from any person, whether a resident or otherwise using the Protected Structure as defined herein for any lawful purpose, regarding noise generated during construction, drilling or hydraulic fracturing activities, the Operator shall, within twenty-four (24) hours of receipt of the complaint from the Township, continuously monitor for a forty-eight (48) hour period at a point which is the closer to the complainant's building of:
 - i. The complainant's Protected Structure property line nearest to the wellsite or equipment generating the noise; or
 - ii. One hundred (100) feet from the Protected Structure;
- f. If the Operator engages in any noise testing as required by this Ordinance, it will provide preliminary data to the Township no later than ten (10) business days following completion of the noise testing. Once the monitoring is complete, Operator will meet with Township representatives and affected residents to discuss whether possible noise abatement measures are warranted, if the permitted levels set forth herein were exceeded;
- g. Exhaust from any internal combustion engine or compressor used in connection with the drilling of any well or for use on any production equipment or used in Development shall not be

discharged into the open air unless it is equipped with (i) an exhaust muffler or (ii) an exhaust box. The exhaust muffler or exhaust box shall be constructed of non-combustible materials designed and installed to suppress noise and disruptive vibrations. Moreover, all such equipment with an exhaust muffler or exhaust box shall be maintained in good operating condition according to manufacturer's specifications;

- h. All workover operations shall be restricted to the hours of 6:00 a.m. to 10:00 p.m., except in the extent of an emergency, as reasonably determined by the Operator. "Workover operations" shall mean work performed in a well after its completion in an effort to secure production where there has been none, restore production that has ceased, or increase production.
- i. The noise restrictions contained in this Paragraph 15 apply to Natural Gas Compressor Stations and Processing Plants.

Section 2.

Section 132-124(A-C), Enforcement Remedies, shall be deleted in its entirety and replaced with the following:

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 Zoning Code shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township before, pay a judgment of not more than Five Hundred Dollars (\$500.00), plus all court costs, including reasonable attorneys fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township 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 Township 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 Township. Any of the previously mentioned who or which violates this Ordinance shall also be responsible for the Township's attorney's fees, engineering fees, expert fees and court costs associated with enforcement.

Section 3.

If a decision of 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 Township Supervisors of the Township of Ohio 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.

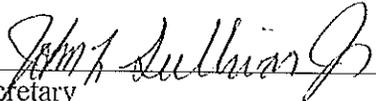
Section 4.

This Ordinance shall become effective immediately and shall repeal all other inconsistent ordinances and resolutions to the extent of such inconsistency.

ORDAINED AND ENACTED this 2nd day May, 2011.

ATTEST:

TOWNSHIP OF OHIO


Secretary


Chairman, Board of Supervisors