

**BOROUGH OF JEFFERSON HILLS
ALLEGHENY COUNTY, PENNSYLVANIA**

ORDINANCE NO 814

AN ORDINANCE OF THE BOROUGH OF JEFFERSON HILLS, ALLEGHENY COUNTY, PENNSYLVANIA, PROVIDING FOR THE ZONING OF OIL AND GAS DRILLING OPERATIONS.

WHEREAS, the Jefferson Hills Borough Council has the power to protect the health, safety, and welfare of people and property in the Borough.

WHEREAS, the Jefferson Hills Borough Council believe that it is in the best interest of the residents and citizens that the Borough be provided certain information prior to commencement of Oil and Gas drilling operations.

WHEREAS, the Jefferson Hills Borough Council wish to amend their Zoning Ordinance and Zoning Map to create Overlay Districts that provides for Oil and Gas Development as Conditional Use based upon the size of the well site and the location of the drilling set forth herein.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED and it is hereby ordained and enacted by the Borough Council of the Borough of Jefferson Hills, Allegheny County, Pennsylvania as follows:

SECTION 1. Purpose.

It is hereby declared to be the purpose of this chapter to declare the Development of Oil and Gas as a conditional use within designated overlay zoning districts based upon the size of the well site. Jefferson Hills recognizes that the regulation of oil and gas operations is the primary responsibility of the regulatory agencies of the Commonwealth of Pennsylvania, but that the Borough maintains its Zoning powers as set forth in Pennsylvania Statute Title 53, Municipality Planning Code (“MPC”) and through the Borough of Jefferson Hills Zoning Ordinance. It is in the Borough’s best interest to address the Zoning districts where such activities will be permitted and to have information concerning oil and gas exploration, development, and production taking place within the Borough and to ensure certain security and safety measures related to oil and gas well drilling are in place in certain areas.

SECTION 2. 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.

Borough. Jefferson Hills, 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 has an interest in real estate for the purpose of exploring or drilling for, producing, or transporting Oil or Gas.

Protected Structure. Any occupied residence, commercial business, school, religious institution or other public building located within 1,000 feet of the surface location of a well 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) has (have) signed a waiver relieving the Operator from implementation of the measures established in paragraph Section 3, Paragraph 15 of this Ordinance for the owner's (occupants') benefit.

Well Site. The well site shall consist of the area occupied by the facilities, structures, and equipment necessary for or incidental to the construction, drilling, fracturing, production, or operation of an oil or gas well. If multiple areas are used, then the total combined areas shall be considered the well site area.

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.

SECTION 3. Creation of Overlay Districts

The Borough of Jefferson Hills hereby creates the following zoning overlay districts that designate areas within the Borough in which Oil and Gas Development may be permitted as a Conditional Use. Based upon the size of the well site and meeting all conditions and standards contained in Section 4 of this Ordinance.

1. Oil and Gas Development Overlay A: The purpose of Overlay A is to provide for areas within the Borough that permits by conditional use small scale Oil and Gas Development in which the gas well site is one (1) acre or less in size ;

2. Oil and Gas Development Overlay B: The purpose of Overlay B is to provide for areas within the Borough that permits by conditional Oil and Gas Development included in Overlay A, as well as those that have well sites greater than one (1) acre in size.
3. Oil and Gas Development shall not be permitted in areas that are not included in Overlay A or Overlay B.

SECTION 4: Conditions and Standards

Oil and Gas Development may be permitted as a Conditional Use subject of the following standards and conditions:

1. Operator shall comply with any generally applicable bonding and permitting requirements for Borough roads that are to be used by overweight vehicles and equipment for Development activities. For state and county roads located within the Borough, Operator shall provide a copy of the Highway Occupancy Permit for overweight vehicles to Borough. The Operator shall also submit at the time of application a "Road Restoration Plan" that indicates how the Operator plans to address damage to Borough roads during construction and after construction is complete
2. Operator shall take the necessary safeguards to ensure that the Borough roads utilized remain free of dirt, mud and debris resulting from Development activities and/or shall ensure such roads are promptly 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. However, Operator shall be permitted to, consistent with any relevant outdoor burning ordinance(s), laws and regulations, burn any brush, trees, or stumps that have been removed from the ground and collected into a pile or piles on the properties where the Operator is engaging in Development.
5. Prior to Development, Operator shall provide to the Borough's Police Department and Fire Departments ("First Responders") and to the Borough Zoning Officer, an copy of its Preparedness, Prevention and Contingency ("PPC") Plan, which shall be acceptable to the Borough.
6. Before any development activities , the Borough shall ascertain whether the Borough's Police and Fire Departments 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 Borough, 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 immediately after any substantial modification to the Development or Well Site, or not less than annually during the period when the Operator anticipates drilling activities in the Borough.

7. Operator shall take the necessary safeguards to ensure appropriate dust control measures are in place.
8. Recognizing that the specific location of equipment and facilities is an important and integral part of Oil and Gas Development, as part of the planning process, Operator shall strive to consider location of its temporary and permanent operations, where prudent and possible, so as to minimize interference with Borough residents' enjoyment of their property and future Borough 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 take steps, to the extent practicable, to 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. At least two (2) weeks prior to any development activity at a gas or oil well location, the Operator shall provide the following information to each resident within one thousand (1,000) 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 to be 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 residents 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. The Operator shall provide to the Borough Zoning Officer, at least ten (10) days prior to any development activities:
 - 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 least ten (10) days prior to commencement of drilling the Operator shall provide to the Borough Zoning Officer a copy of the drilling permit issued by the Pennsylvania

Department of Environmental Protection ("DEP"). The Operator shall also provide a copy of the plat indicating the size of the proposed drilling area.

13. In addition to the requirements in subsections 1-12 above, for any Oil and Gas well where the planned surface location of the well will be within one thousand (1,000) feet of a Protected Structure, the Operator shall:
 - 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 an adequate number of warning signs providing notice of the potential dangers at the perimeter of the Well Site.
 - c. Provide at least one security guard at all times when a drilling rig or hydraulic fracturing equipment is on the Well Site.
14. Prior to the commencement of drilling activity, 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 7:00 a.m.
15. Borough 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 Borough'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 from 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 7:00 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 7:00 a.m.; or
- iii. by more than ten (10) decibels during construction or hydraulic fracturing operations.

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

d. Adjustments to the forgoing 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 any one hour.

e. If a complaint is received by the Borough 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 Borough, 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 well site or equipment generating the noise, or, 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 Borough no later than five (5) business days following completion of the noise testing. Once the monitoring is complete, Operator will meet with Borough 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 noncombustible 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 7:00 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.

16. Operator shall take all reasonable measures to prevent the emission of offensive odors from the Development.
17. Oil and Gas Development sites that are located within Overlay B shall provide a one hundred (100) foot setback area from all overlay district boundaries that abut either Overlay A or areas that are not included in Overlay A or Overlay B. No structures shall be permitted within this setback area.
18. All permanent facilities shall be painted an earth tone color to blend in with the surrounding area. The Borough may require fencing and or landscaping to buffer the facilities from adjacent properties.

SECTION 5. Penalties.

Any Operator or person performing work at their direction who violates or permits a violation of this chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees incurred by the Borough in the enforcement of this chapter. No judgment shall be imposed 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 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. A person who violates this Ordinance shall also be responsible for the Borough's attorney's fees, engineering fees, expert fees and court costs associated with enforcement.

SECTION 5. Natural Gas Compressor Stations and Natural Gas Processing Plants.

1. Natural Gas Compressor Stations shall be listed as a Conditional Use in the I-2 (Heavy Industrial District)
2. Natural Gas Processing Plants shall be listed as a Conditional Use in the I-2 (Heavy Industrial District)

SECTION 6. Repealers

The following sections of the Borough of Jefferson Hills Zoning Ordinance (No, 712) are hereby repealed:

1. Article 102.2 Definitions: Remove Oil and Gas Drilling Definition
2. Article 201.1(b)(1)(k)
3. Article 202.1(b)(1)(i)
4. Article 203.1(b)(1)(h)
5. Article 204.1(b)(1)(e)
6. Article 205.1(c) (1)(a)
7. Article 401.1(b) (1)(i)
8. Article 402.1(b)(1)(g)
9. Article 501.1(b)(1)(d)
10. Article 502.1 (b)(1)(c)
11. Article 701.1 (b)(1)(b)
12. Article 1004.35

SECTION 7. Effective Date.

This ordinance shall take effect five (5) days after passage.

ORDAINED AND ENACTED into law this _____ day of _____, 2010.

ATTEST:

BOROUGH OF JEFFERSON HILLS

BY: _____
Douglas C. Arndt
Secretary

Christopher W. King
President of Council

Examined and approved this _____ day of _____, 2010.

Michael A. Green
Mayor