

DRAFT – dated 03/16/10

GAS WELL ORDINANCE

TOWNSHIP OF SOUTH FAYETTE
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE No. _____ OF 2010

AN ORDINANCE OF THE TOWNSHIP OF SOUTH FAYETTE, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING CHAPTER 240, “ZONING”, OF THE SOUTH FAYETTE TOWNSHIP CODE. AMENDING THE FOLLOWING ARTICLES:

- ARTICLE II “DEFINITIONS”, ADDING THE DEFINITIONS FOR OIL AND GAS DEVELOPMENT, OUTLINED HEREIN;
- ARTICLE IV “R-1 RURAL RESIDENTIAL DISTRICT”, SECTION 15, B, ADDING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE V “R-2 SUBURBAN RESIDENTIAL DISTRICT”, SECTION 22, B, ADDING OIL AND GAS DEVELOPMENT EXPLORATION AND PRODUCTION AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE VI “R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT”, SECTION 29, B, ADDING OIL AND GAS DEVELOPMENT EXPLORATION AND PRODUCTION AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE VII “R-4 NEIGHBORHOOD RESIDENTIAL DISTRICT”, SECTION 36, B, ADDING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE VIII “C-1 LIMITED COMMERCIAL DISTRICT”, SECTION 43, B, ADDING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE IX “C-2 HIGHWAY COMMERCIAL DISTRICT”, SECTION 50, B, ADDING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE X “PED PLANNED ECONOMIC DEVELOPMENT DISTRICT”, SECTION 57, B, ADDING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE XI “I-P PLANNED INDUSTRIAL PARK DISTRICT”, SECTION 64, B, ADDING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE XII “I-1 GENERAL INDUSTRIAL DISTRICT”, SECTION 71, B, ADDING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE XIII “B-1 BUSINESS DISTRICT”, SECTION 76.2, B, ADDING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND

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STANDARDS;

- ARTICLE XIIB “CD-1 CONSERVATION DISTRICT”, SECTION 76.10, B, ADDING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- AS SPECIFIC CRITERIA AND STANDARDS ARE NECESSARY FOR THE EVALUATION AND ORDERLY DEVELOPMENT OF OIL AND GAS RESOURCES IN SOUTH FAYETTE TOWNSHIP.

WHEREAS, the Board of Commissioners of the Township of South Fayette, after consultation with the Township Zoning Administrator and Solicitor have determined that the health, safety and welfare of the general public and residents of the Township of South Fayette will be promoted and protected by permitting the existence of oil and gas wells in areas of the Township which are less dense and amenable to oil and gas exploration; and

WHEREAS, the Commissioners of the Township of South Fayette, after consultation with and review by the Township Planning Commission and the Township’s Code Officials and Solicitor’s office and under the authority of the MPC, at 53 P.S. §10603(c)(2) have determined that the health, safety and welfare of the public will be promoted and protected by allowing this development as a conditional land use in certain defined areas; and

WHEREAS, the MPC, AT 53 P.S. §10603(c)(3) states that the zoning ordinances may contain provisions for the administration and enforcement of such ordinances to protect the health, safety and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of the Township of South Fayette and it is hereby ordained as follows:

SECTION I: Amendments & Changes

- 1. Chapter §240, Article II “Definitions, Section 9 “Particular Meanings” is hereby amended and revised by the addition of the following definitions:**

GAS - Any fluid, either combustible or noncombustible which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA, any manufactured gas, any byproduct gas or any mixture of gases. Fluid can be either natural gas, methane gas, coal bed methane gas, propane, butane

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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.

NATURAL GAS COMPRESSOR STATION – A facility designed and constructed to compress natural gas that originates from an Oil and Gas well to 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 designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from natural gas.

OIL AND GAS 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.

OIL OR PETROLEUM - Hydrocarbons in liquid form at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA. Liquid can be crude oil 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.

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.

WELL - A bore hole drilled or being drilled for the purpose of or to be used for producing extracting or injecting any gas, petroleum or other liquid related to oil or gas production or storage, including brine disposal, but excluding bore holes drilled to produce potable water to be used as such. The term well does not include a bore hole drilled or being drilled for the purpose of or to be used for systems of monitoring producing or extracting gas from solid waste disposal facilities as long as the wells are subject to the Act of July 7, 1980 (P.L. 380, No. 97), known as the Solid Waste Management Act and do not penetrate a workable coal seam. The term also does not include a bore hole drilled or being drilled for the purpose of or to be used for degasifying coal seams if the following conditions are satisfied:

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- A. The bore hole is used to vent methane to the outside atmosphere from an operating coal mine; and,
- B. The bore hole is registered as part of the mining permit pursuant to the Act of June 22, 1937 (P.L. 1987, No. 394), known as the Clean Stream Law, and the act of May 31, 1945 (P.L. 1198, No.418), known as the Surface Mining Conservation and Reclamation Act; and,
- C. The bore hole is drilled by the operator of the operating coal mine for the purpose of increased safety; or,
- D. The bore hole is used to vent methane to the outside atmosphere pursuant to a State or Federal funded abandoned mine reclamation project.

WELL OPERATOR OR 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. It is also the person or entity designated as the well operator or operator on the permit application or well registration. Where a permit or registration was not issued, the term shall mean any person who locates drills, operates, alters or plugs any well or reconditions any well with the purpose of production there from. In cases where a well is used in connection with the underground storage of gas, the term also means a “storage operator.”

WELL SITE - A graded pad designed and constructed for the drilling of one or more Oil and Gas wells.

2. Chapter §240 Zoning, Article IV “R-1 Rural Residential District”, Section 15, B “Conditional Uses” is hereby amended and the following use(s) are added:

- (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

3. Chapter §240 Zoning, Article V “R-2 Suburban Residential District”, Section 22, B “Conditional Uses” is hereby amended and the following use(s) are added:

- (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

4. Chapter §240 Zoning, Article VI “R-3 Medium Density Residential District”, Section 29, B “Conditional Uses” is hereby amended and the following use(s) are added:

- (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

5. Chapter §240 Zoning, Article VII “R-4 Neighborhood Residential District”, Section 36, B “Conditional Uses” is hereby amended and the following use(s) are added:

- (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

6. **Chapter §240 Zoning, Article VIII “C-1 Limited Commercial District”, Section 43, B “Conditional Uses” is hereby amended and the following use(s) are added:**
 - (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

7. **Chapter §240 Zoning, Article IX “C-2 Highway Commercial District”, Section 50, B “Conditional Uses” is hereby amended and the following use(s) are added:**
 - (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

8. **Chapter §240 Zoning, Article X “PED Planned Economic Development District”, Section 57, B “Conditional Uses” is hereby amended and the following use(s) are added:**
 - (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

9. **Chapter §240 Zoning, Article XI “I-P Industrial Park District”, Section 64, B “Conditional Uses” is hereby amended and the following use(s) are added:**
 - (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

8. **Chapter §240 Zoning, Article XII “I-1 General Industrial District”, Section 71, B “Conditional Uses” is hereby amended and the following use(s) are added:**
 - (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

9. **Chapter §240 Zoning, Article XIIA “B-1 Business District”, Section 76.2, B “Conditional Uses” is hereby amended and the following use(s) are added:**
 - (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

10. **Chapter §240 Zoning, Article XIIB “CD-1 Conservation District”, Section 76.10, B “Conditional Uses” is hereby amended and the following use(s) are added:**
 - (1) Principal uses.

Oil and Gas Development, subject to §240-95A (54)

???. Chapter §240 Zoning, Article XV “Express Standards and Criteria for Granting Conditional Uses and Uses by Special Exception”, Section 95, A “Standards for Specific Uses” is hereby amended by the addition of the following use(s):

(54) Oil and Gas Development, subject to:

- a) A conditional use application in accordance with South Fayette Township regulations. The application will include a survey of the proposed well site showing all permanent structures and facilities (including locations and distances) within 1,000 feet of the site. Upon approval of the conditional use application, the Operator will be required to obtain a ‘Land Operations Permit’ for each well proposed on the Well Site.
- b) Oil and Gas Development Well Sites shall be permitted to occur on property that is a minimum of ten (10) acres or larger. Multiple property owners can combine adjoining parcels to achieve the minimum acreage required.

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 locate the temporary and permanent operations so as to minimize interference with Township residents, and future Township development activities as authorized by the Township’s Board of Commissioners.

- c) Oil and Gas Development in the floodway of the regulated floodplain and within the remainder of the 100 year floodplain is prohibited.
- d) As part of the Land Operations Permit, the Operator shall submit the following to the Township for review and approval:
 - 1) A copy of all permits (General, ESCGP-1, etc.) required and issued by the Pennsylvania Department of Environmental Protection (PADEP) and Allegheny County Conservation District (ACCD);
 - 2) A map showing the planned access routes to the Well Site(s);
 - 3) A completed ‘Excess Maintenance Agreement’ for the particular well site; or bonding of roads in an amount acceptable to the Township;
 - 4) The well survey plat showing the planned surface location(s) of the well(s);
 - 5) All applicable contact information for the Operator, including phone number of supervisor that can be reached twenty-four (24) hours a day.
- e) Mobilization/Demobilization of equipment for development of an Oil or Gas Well site(s) shall be subject to all regulations (i.e. roadway bonding, etc.) adopted by South Fayette Township and Pennsylvania Department of Transportation (PennDOT). Access of a well site directly onto a state road(s) shall require the issuance of a Highway Occupancy Permit from PennDOT.

- f) The Operator shall take the necessary safeguards to ensure that the roads utilized, be it PennDOT or Township owned, remain free of dirt, mud and debris; and/or are promptly swept or cleaned if dirt, mud and debris occur. In addition, prior to start of development of the well site, the Operator shall execute an 'Excess Maintenance Agreement' with South Fayette Township. The agreement is to guarantee restoration of state and township roads damaged as a result of Oil and Gas Development traffic.
- g) To assist in ensuring the roads remain free of dirt and mud, the contractor will be required to construct an asphalt paved access road not less than one hundred (100) feet in length. The subject access road is to be designed to withstand the repeated equipment loads required for the development process, and must be approved by the Township Engineer. Additionally, the width of the access must be such to permit two-way traffic. A rock construction entrance, in accordance with PADEP regulations, is to be constructed at the end of the access road and maintained for the duration of the development process.
- h) The access drive shall be gated at the entrance. The well site address shall be clearly visible on a sign posted on the access gate for emergency 911 purposes. In addition, the subject sign shall include the well name/number and an emergency contact telephone number.
- i) The Operator shall take all necessary precautions to ensure the safety of all pedestrians in road crossing areas and/or adjacent to roadways. When deemed necessary, or at the direction of the Township, the 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.
- j) Prior to drilling, the Operator shall provide a copy of its Preparedness, Prevention and Contingency ("PPC") Plan to the Township's Fire and Police Department, for review and approval. Included with the PPC Plan shall be a list of all chemicals or waste products to be used or produced during development procedures.

Upon review of the PPC Plan, a meeting between all parties will be held to discuss Emergency and First Response procedures; and determine which First Response personnel have secured adequate training (5 hours minimum per year) to deal with any potential dangerous conditions that may result due to development activities.

Should First Response training become necessary, prior to drilling, the Operator will make available an appropriate training program for First Responders. This

training program will be at the sole expense of the Operator, and shall be made available annually for the duration of the drilling activities in the Township.

- k) The Operator shall grant the right of inspection to the Township for all phases of construction and during drilling production and in the reclamation, both in relation to the enforcement of this ordinance and pursuant to the Township of South Fayette's enforcement rights under 58 P.S. 61.504(b) of Pennsylvania's Oil and Gas Act and any other relevant Pennsylvania Statute.
- l) 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 to minimize glare on public roads and adjacent buildings within three hundred (300) feet of the drill site, wellhead, or other area being developed.
- m) Prior to the commencement of drilling activities, all construction activities involving any facet of excavation or preparation of the Well Site shall be performed in accordance with the normal construction activity hours as outlined in the Township Construction Standards.
- n) Prior to any Oil and Gas Development well(s) at a location, the Operator shall provide the following information to each resident within 1,000 feet of the planned surface location:
 - A copy of the well survey plat showing the location(s) of the planned well(s);
 - A general description of the planned operations and associated equipment;
 - All applicable contact information for the Operator;
 - If requested by the Township, the Operator will hold a meeting with such residents to present Operator's various plans for the well(s), and to allow for questions and answers.
- o) All well sites and off-site fracture ponds shall be screened, fenced and secured with a gate as follows:
 - All well sites are to be constructed to minimize disturbance and maintain as much "natural" screening as possible.
 - Temporary chain link fencing at least six (6) feet in height with eleven (11) gauge minimum thickness. Support posts must be set in concrete and imbedded into the ground to a depth sufficient to maintain stability.
 - Screening shall be green fabric mesh, or other material type approved by the Township.
 - Each gate opening shall be not less than twelve (12) feet wide and be comprised of two (2) separate gates, each of which is not less than six (6) feet wide. All gates shall be latched and locked at the center.
 - For each entrance gate, the Operator shall provide the Township with a "lock box and key" to access the well site in case of emergency.

- Warning signs shall be install at one hundred (100) foot spacing to provide notice of the potential dangers.
 - Operator shall provide at least one security guard at all times (i.e. 24 hours per day, 7 days per week) when a drilling rig or hydraulic fracturing equipment is on the Well site.
- p) Township recognizes and acknowledges that Oil and Gas Development is accompanied by inherent noise. However, the Operator shall take the necessary steps to minimize, to the extent practicable, the noise resulting from the Oil and Gas Development. Be advised that – when requested by the Township – the Operator shall install sound attenuation devices such as acoustical blankets, sound walls, mufflers, etc. to ensure compliance with the Township noise regulations, especially when well sites are located adjacent to residential developments and public facilities.

If a public complaints regarding noise are continually received by the Township, the Operator shall, within twenty-four (24) hours of receipt of the direction from the Township, continuously monitor the noise levels for a forty-eight (48) hour period at a point acceptable to the Township.

- q) Exhaust from any internal combustion engine or compressor used in connection with any Development operation shall not be discharged into the open air unless it is equipped with (1) an exhaust muffler, or (2) 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.
- r) Paragraphs a), g), h), n), and o) of this Ordinance shall not apply to conventional oil and gas well drilling and completion activities. Examples of conventional oil and gas drilling activities are:
- Oil and gas wells drilled to depths shallower than the base of the Elk Sandstone or its stratigraphic equivalent;
 - Oil and gas wells that are planned to involve drilling of a single well on a site for no more than seven (7) consecutive days total in any calendar year.
- s) Upon completion of the development operations, the Operator will be required to restore the site area in a manner acceptable to the Township. This may include one or more of the following:
- The submission of a landscaping plan, to be reviewed and approved by the Township, which outlines the proposed methods of restoration.
 - The installation of Buffer Areas in accordance with Article 240-98 of the Township Code.
 - Construction of other similar restoration measures either requested during the

Conditional Use Application process, or deemed necessary by the Township at the time of final restoration.

- t) All other criteria, standards and regulations of oil and gas exploration and production are under the control of the Department of Environmental Resources and subject to the Oil and Gas Act Sections 601.101 through 601.605 as amended and other relevant Commonwealth of Pennsylvania Statutes.

4. The proper officials of South Fayette Township are hereby authorized and directed to do all things necessary to effectuate the purpose of this Ordinance.

5. All ordinances and parts of ordinances inconsistent with the terms of this Ordinance are hereby repealed, provided, however, that such repeals shall only be to the extent of such inconsistency and in all other aspects, this Ordinance shall be cumulative with the other ordinances regulating and governing the subject matter covered by this Ordinance.

6. If any section or provision or parts thereof in this Ordinance shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the Ordinance as a whole or any other section or provision or part thereof.

7. This Ordinance shall be in full force and effect from and after its passage and publication as required.

ORDAINED AND ENACTED INTO LAW, this _____ day of _____, 2010.

Attest:

TOWNSHIP OF SOUTH FAYETTE

Township Secretary

By: _____
Thomas Sray, President
Board of Commissioners