

OIL AND GAS WELL ORDINANCE

TOWNSHIP OF SOUTH FAYETTE
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE No. 6 OF 2016

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 OR REVISING THE DEFINITIONS RELATED TO OIL AND GAS DEVELOPMENT, OUTLINED HEREIN;
- ARTICLE VIII "C-1 LIMITED COMMERCIAL DISTRICT", SECTION 43, B, DELETING OIL AND GAS DEVELOPMENT, NATURAL GAS COMPRESSOR STATION AND NATURAL GAS PROCESSING PLANT AS CONDITIONAL USES;
- ARTICLE IX "C-2 HIGHWAY COMMERCIAL DISTRICT", SECTION 50, B, DELETING OIL AND GAS DEVELOPMENT, NATURAL GAS COMPRESSOR STATION AND NATURAL GAS PROCESSING PLANT AS CONDITIONAL USES;
- ARTICLE X "PED PLANNED ECONOMIC DEVELOPMENT DISTRICT", SECTION 57, B, DELETING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE;
- ARTICLE XI "I-P PLANNED INDUSTRIAL PARK DISTRICT", SECTION 64, B, ADDING IMPOUNDMENTS AS AN ACCESSORY USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE XII "I-1 GENERAL INDUSTRIAL DISTRICT", SECTION 71, B, ADDING IMPOUNDMENTS AS AN ACCESSORY USE, SUBJECT TO SPECIFIC CRITERIA AND STANDARDS;
- ARTICLE XIII "B-1 BUSINESS DISTRICT", SECTION 76.2, B, DELETING OIL AND GAS DEVELOPMENT AS A CONDITIONAL USE;
- ARTICLE XV "EXPRESS STANDARDS AND CRITERIA FOR GRANTING CONDITIONAL USES AND USES BY SPECIAL EXCEPTION", SECTION 95, A, 54, AMENDING STANDARDS AND CRITERIA FOR GRANTING CONDITIONAL USE FOR OIL AND GAS DEVELOPMENT;
- ARTICLE XV "EXPRESS STANDARDS AND CRITERIA FOR GRANTING CONDITIONAL USES AND USES BY SPECIAL EXCEPTION", SECTION 95, A, 55 AMENDING STANDARDS AND CRITERIA FOR GRANTING CONDITIONAL USE FOR NATURAL GAS COMPRESSOR STATION AND NATURAL GAS PROCESSING PLANT;
- ARTICLE XV "EXPRESS STANDARDS AND CRITERIA FOR GRANTING CONDITIONAL USES AND USES BY SPECIAL EXCEPTION", ADDING SECTION 95, A, 56 STANDARDS AND CRITERIA FOR GRANTING CONDITIONAL USE FOR IMPOUNDMENTS AS AN ACCESSORY USE;

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 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 limiting the existence of oil and gas wells to areas of the Township which are industrial in nature; 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 industrial; 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 definition:

FRESH WATER – Water obtained from a potable water source of the Commonwealth such as a hydrant, stream, lake, water well, spring or other source that has not been treated or utilized in commercial or industrial operations.

GROUNDWATER – Water in that portion of the generally recognized hydrologic cycle which occupies the pore spaces and fractures of saturated subsurface materials. Groundwater often supplies wells and springs and is often withdrawn for domestic, agricultural, municipal, industrial and other beneficial uses.

WATER IMPOUNDMENT FRESH – A lined depression excavation pit or facility situated in or upon the ground whether natural or artificial used to store fresh water

WATER IMPOUNDMENT WASTE – A lined depression excavation pit or facility situated in or upon the ground, whether natural or artificial, used to store waste water fluid including but not limited to brine, fracturing fluid, produced water, recycled water, impaired water, flowback water, or any other fluid that does not satisfy the definition of "fresh water".

2. Chapter §240 Zoning, Article VIII "C-1 Limited Commercial District", Section 43,

B “Conditional Uses” is hereby amended and the following use(s) are deleted:

- (1) Principal uses.
 - Oil and Gas Development, subject to §240-95A (54)
 - Natural Gas Compressor Station and Natural Gas Processing Plant, subject to §240-95A (55)

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

- (1) Principal uses.
 - Oil and Gas Development, subject to §240-95A (54)
 - Natural Gas Compressor Station and Natural Gas Processing Plant, subject to §240-95A (55)

4. Chapter §240 Zoning, Article X “PED Planned Economic Development District”, Section 57, B “Conditional Uses” is hereby amended and the following use(s) are deleted:

- (1) Principal uses.
 - Oil and Gas Development, subject to §240-95A (54)

5. 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:

- (2) Accessory uses.
 - Impoundments, subject to §240-95A (56)

6. 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:

- (2) Accessory uses.
 - Impoundments, subject to §240-95A (56)

7. Chapter §240 Zoning, Article XIII “B-1 Business District”, Section 76.2, B “Conditional Uses” is hereby amended and the following use(s) are deleted:

- (1) Principal uses.
 - Oil and Gas Development, subject to §240-95A (54)

8. 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 as follows:

(54) Oil and Gas Development, subject to:

- a.) A Conditional Use application shall be accompanied with written permission from the property owner(s) who has legal or equitable title in and to the surface of the drill site or a demonstrable documentation of the applicant’s authority to occupy the surface for the purpose of mineral extraction. In addition, the application shall include the proposed pipeline

route from the oil and gas drill site to the transmission line and how fluids will be brought to and from the site.

- b.) Conditional Use approval is non-transferable without consent from the Board of Commissioners, and shall automatically terminate, unless extended, if drilling is not commenced within one (1) year from the date of issuance of the conditional use. The conditional use approval may be extended by the Board of Commissioners upon written request by the Operator, after notice and hearing. The Operator shall provide proof that the requested conditional use permit for such location has not changed.
- c.) The well site shall maintain a minimum distance from protected structures, as set forth in the table below. The Township reserves the right to increase any setback based on physical characteristics of the site and evidence received at a hearing necessitating an increase in the minimum setback, including but not limited to topography, wind conditions, air modeling studies, woodlands, hydrogeological studies, and distance from structures, parks, schools, and residential neighborhoods as part of the conditional use process.
- d.) Oil and Gas Development Well Sites shall be permitted to occur on property whose overall acreage 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. Reference is made to the table below which lists the minimum offset distance from the well to the protected structure.

<u>SET BACK DISTANCES (Minimum)</u> <u>from PROTECTED STRUCTURES (Feet)</u>			
RESIDENTIAL USES		NON-RESIDENTIAL USES	
R-1	1,700	R-1	1,700
R-2	1,500	R-2	1,500
R-3	2,800	R-3	2,800
R-4	1,500	R-4	1,500
C-1	1,000	C-1	500

C-2	500	C-2	500
B-1	500	B-1	500
PED	1,000	PED	1,000
I	1000	I	0
I-P	1000	I-P	0
CD-1	1,000	CD-1	1,000
SPECIAL USES			
SCHOOL	2,500 FEET	HOSPITAL	2,500 FEET
WETLAND > 5 ACRES	2,000 FEET	POND/LAKE	500 FEET
GAS STATION	1,500 FEET	NURSING HOME	1,250 FEET
MOBILE PARK HOME	1,000 FEET	DAY CARE	1,500 FEET

e.) As part of the Conditional Use application, the Applicant shall have submitted all necessary applications for permits and plan approvals to the PA DEP. Prior to beginning the drilling site construction, the Applicant shall submit to the Township a copy of all permits (General permits, well permit(s), joint permits, earth disturbance permit, ESCGP-1, etc.) issued by the PA DEP. In addition, the Township shall be provided copies of all plans (erosion and sedimentation control, grading, water management plan, water withdrawal plan, Pollution Prevention Contingency, alternate waste disposal, etc.) required and approved by the PA DEP. The Township Engineer shall be provided with a timeline and activity schedule and all required permits shall be maintained, commencing at site construction and continuing throughout the duration of drilling and production testing (hydraulic fracturing) operations. Any suspension, or revocation of permits or other penalties by PA DEP shall be reported to the Township and shall constitute a violation of Township zoning approval and may result in the suspension of zoning approval.

f.) Pre-Drilling, Post-Hydraulic Fracturing, and Baseline Water Survey Requirements – Prior to drilling and post-hydraulic fracturing, the Operator shall be responsible for testing all existing water supplies (surface and groundwater) within 1,000 feet of the surface location of the well. The purpose of testing is to determine the baseline quality and quantity of 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, §78.52 (f). In addition, prior to drilling, the Operator will be required to drill a test well outside of the limits of the well pad but no more than 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 site. The test well shall be located such that it is part of the hydrologic system of the drill site. All testing shall adhere to the following:

- i. Pre-drilling testing results, both from existing water supplies and from the Operator-drilled test well, shall be submitted as part of the Conditional Use application.
- ii. 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.
- iii. The post-hydraulic fracturing test results, both from existing water supplies and from the Operator-drilled test well, shall be submitted to the Township, PA DEP, and residents within 1,000 feet of the surface location of the well in accordance with PA Code Title 25, Chapter 78, §78.52 “Pre-drilling or prealteration survey” within ten (10) days of their receipt.
- iv. 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 Township.
- v. Water Quantity Test – The Operator shall hire a consultant (hydrogeologist) agreed upon by the Township to conduct water quantity testing. The consultant shall submit a pre-testing and a pre-drilling plan to be approved by the Township. 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.

- vi. 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 Township reserves the right to add additional parameters:

Analyte				
Inorganic	Trace metal	Organic	Microbiology	Other
Alkalinity	Barium	Ethane	Total Coliform/E.Coli	Volatile Organic Compounds
Chloride	Calcium	Methane		Detergent (MBAs)
Conductivity	Iron	Propane		Total Organic Carbon
Hardness	Magnesium	Total Petroleum Hydrocarbons		Nitrate
Oil/Grease/Bromide	Manganese			Radionuclides gross alpha, radium
Ph	Potassium			Radon
Sulfate	Sodium			Lead
Total Dissolved Solids	Strontium			Total Coliform Bacteria
Residue - Filterable	Aluminum			
Turbidity	Lithium			
Ethylene Glycol	Selenium			
Acetone	Boron			

- g.) Pre-Drilling and Post-Hydraulic Fracturing 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 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.
- a. Pre-drilling testing results shall be submitted as part of the Conditional Use 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. The results shall be submitted to the Township and PA DEP within ten (10) days of their receipt.
 - d. 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 Township.
 - e. Operators shall test for the following list of parameters for soils. The list is not exhaustive and the Township reserves the right to add additional parameters:

Analyte				
Inorganic	Trace metal	Microbiology	Other	
Alkalinity	Barium	Total Coliform/E.Coli	Volatile Organic Compounds	
Chloride	Calcium		Nitrate	
Hardness	Iron		Radionuclides gross alpha, radium	
Oil/Grease/Bromide	Magnesium		Lead	
Ph	Manganese			
Sulfate	Potassium			
Residue - Filterable	Sodium			
Residue-Non Filterable	Strontium			
Bromide	Arsenic			
	Zinc			
	Aluminum			
	Lithium			
	Selenium			
	Boron			

- h.) Access directly to State roads shall require Pennsylvania Department of Transportation (PADOT) Highway Occupancy Permit approval. Prior to initiating any work at a drill site, the Township shall be provided a copy of the Highway Occupancy Permit.
- i.) The applicant must provide the Township with a plan showing the proposed truck routes to be utilized during the drilling operation. The proposed hauling routes must be designed to minimize the impact on Township roads. The Township reserves the right to designate reasonable required truck hauling routes consistent with the Pennsylvania Motor Vehicle Code and Pennsylvania Department of Transportation throughout the Township. The Township shall consider all potential routes and, when possible, designate routes that are the least intrusive to the Township, its operation, and the general public. When determining the least intrusive routes, the Township shall account for roadway jurisdiction, traffic, physical characteristics/conditions, location of school bus stops/routes, and the amount of residential units along potential routes. Routes shall be coordinated with the school district to minimize impact on peak school bus operation hours. Operators shall be responsible for clearly posting designated routes with identification signs in a manner (style and location) approved by the Township.
- j.) The applicant or owner of the oil or gas well shall execute an excess maintenance agreement with the Township for a Type 2 permit as per the Pennsylvania Code Chapter 189.4(B) Road Bonding, and post a bond at the paved highway rate in favor of the Township in a form acceptable to the Township prior to beginning any work on a drill site. The bond is to

guarantee restoration of Township roads and bridges damaged as a result of hauling associated with the drilling operation.

k.) An off-street area, at the entrance to the drill site and outside of the road right-of-way, shall be provided for vehicles to stand while gaining access so that normal flow of traffic on the public street is undisturbed. Driveways accessing the drill site shall be paved with an impervious material from the public street cart way fifty (50) feet into the drill site. The impervious material shall be in place prior to the commencement of the drilling operation. The first fifty (50) feet from existing edge of pavement extending fifty (50) feet into the site shall consist of the following material:

- Compacted Subgrade
- PADOT Class 4 Geotextile Fabric
- 8" AASHTO #1 Crushed Aggregate Base Course
- 2" PADOT 2A Aggregate (Choke Material)
- 4" (Compacted) – Superpave 25 mm Binder Course

The remainder of the driveway to the well pad shall be constructed with the following material:

- Compacted Subgrade
- 8" AASHTO #1 Crushed Aggregate Base Course
- 2" – PADOT 2A Aggregate (Choke Material)

Proper and adequate storm water run-off controls for driveways shall be installed to prevent concentration of run-off onto adjacent properties or public streets.

l.) As part of the Conditional Use application, the applicant/owner shall provide the South Fayette Township Fire Department with a copy of the PA DEP approved preparedness, prevention and contingency (PPC) plan. The applicant shall prior to drilling its first gas well in the Township make available with at least thirty (30) days notice, at the Applicant's sole expense, one appropriate group training program for emergency responders. Such training shall be made available at least annually during any year that drilling activities take place at approved drill sites.

m.) As part of the Conditional Use application, the Township and emergency management services shall be provided the name of the person supervising the drilling operation and a phone number where such person can be reached twenty-four (24) hours a day. Also, a list of contact information for all sub-contractors associated with the oil and gas drilling operations must be provided. The list shall include verification that all supervisors/operators and sub-contractors at the drill site are aware and understand this ordinance.

- n.) The access driveway off the public road to the drill site shall be gated at the entrance to prevent illegal access into the drill site. The drill site assigned address shall be clearly visible on the access gate for emergency 911 purposes. In addition, the sign shall include the well name and number, name of the operator and the telephone number for a person responsible who may be contacted in case of emergency. In lieu of a gate the operator can provide 24/7 security on sites during the drilling operation.
- o.) Lighting – No drill site lighting used for or associated with the drilling operation shall be positioned or directed in such a manner so that it shines directly upon public roads, adjacent property or property in the general vicinity of the drill site. Site lighting shall be directed downward and shielded so as to avoid glare on public roads and adjacent properties. Lumen levels shall not exceed zero (0) foot-candle at the property line.
- p.) Dust, vibration, odors. – All drilling operations shall be conducted in such a manner to minimize dust, vibration or noxious odors. All equipment used shall be constructed and operated so that vibrations, dust, odor or other harmful or annoying effects are minimized by the operations carried on at the drill site to avoid injury to or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe.
- q.) Noise –The Township may require acoustical blankets, sound walls, mufflers or other alternative methods as proposed by the Operator to ensure compliance depending on the location of a proposed drill site to adjacent properties. As part of the Conditional Use application, and prior to beginning the drill operation, the applicant shall establish the residual or background noise level baseline. The baseline shall be established over a seventy-two (72) hour period with at least one (1) twenty four (24) hour reading on a Saturday or Sunday. A noise consultant/engineer mutually agreed upon by the Township and owner/operator will be responsible for determining the residual background noise level baseline. The applicant, owner/operator shall be responsible for all costs associated with the noise consultant/engineer.
- a. The noise generated during drilling and hydraulic fracturing activities when measured at the nearest Protected Structure property line or one hundred feet from the nearest Protected Structure (as measure 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 hour evaluation:
- i. During drilling activities by more than ten (10) decibels during the hours of 7:00 a.m. to 9:00 p.m.;

ii. During drilling activities by more than five (5) decibels during the hours of 9:00 p.m. to 7:00 a.m.

b. Since fluctuations in noise levels are inherent to mineral extraction activities, the Township has created a sliding scale which provides adjustments in the permitted level of noise generated during operations to create flexibility in the regulations and prevent repeated violations. Drilling activities are permitted to generate noise ten (10) decibels higher than the average ambient noise levels (Refer to §240-95A(54)(q)(a)(i)) and the adjustments are in addition to that sound level. Adjustments to the preceding noise limits may only occur during the hours of 7:00 a.m. to 9:00 p.m. and are as follows;

Permitted Increase (dBA)	Duration of Increase (Minutes)
0-5	15
6-10	5
11-15	3
16-20	1
> 20	0

Note: The maximum cumulative time that the permitted increases in dBA may occur in one hour may not exceed fifteen (15) minutes. For instance, an operator shall not be permitted to allow a 10 dBA increase for 5 minutes and then a 5 dBA increase for 15 minutes, within the same hour. If 10 dBA are reached for 5 minutes, then 5 dBA may only occur for 10 minutes.

c. If a complaint is received by any person using a Protected Structure for a lawful purpose, within a reasonable vicinity of a drill site, regarding noise generated during drilling and hydraulic fracturing activities, the Township will conduct a sound test to verify that a viable complaint exists. This test shall be at the Applicant's expense. Upon confirmation by the Township that a possible noise violation exists, the Operator shall, within twenty-four hours of the receipt of the complaint from the Township, continuously monitor for a forty-eight 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
- ii. One hundred feet from the Protected Structure, whichever is closer.

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, the Operator will meet with Township representatives and affected residents to discuss whether possible noise abatement measures are warranted if the permitted levels set herein were exceeded. The Township reserves the right to hire a noise consultant to do its own testing and investigation regarding the noise complaint.

- r.) At the time of Conditional Use application, a survey of the drill site showing the general area where associated gas production equipment (tanks or other surface installations) will be located and locations and distances to property lines shall be filed with the application. All sensitive natural features including but not limited to waterways, wetlands, steep slopes, and floodplains including those 100' outside the limits of disturbance, as defined on the approved PA DEP Erosion and Sedimentation Plan, must also be shown.
- s.) Prior to drilling an oil and gas well or multiple oil and gas wells at a location, but no later than two (2) weeks beforehand, the Operator shall provide the following information to each resident within 1,000 feet of the planned surface location of the well(s):
 - a. A copy of the well survey plat showing the locations(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. Operators shall test all water supplies within 1,000' of each well site and share the results with landowners and the Township. (Refer to §240-95A(54)(e))
 - d. The contact information of the Operator, and
 - e. 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.
- t.) Any on-site associated gas production equipment (well head, separator, condensate tanks, and pipeline) shall be painted an earth tone color to blend in with the surrounding area. An earth tone color shall be neutral colors and include sand, gray, green and unobtrusive shades of brown, or other neutral colors, as approved by the Township Engineer/Zoning Officer.
- u.) The Township may, at its sole discretion, require permanent fencing (Refer to §240-95A(56)(d))for specifications) and or landscaping to buffer the post-drilling facilities or gas production equipment from adjacent properties.
- v.) Any damage to public property caused by such operations must be repaired and restored within sixty (60) days of completing the drilling operation or as agreed to by the Township. The repairs shall meet or exceed prior

conditions. If repairs are not completed within such time, the Applicant shall provide the Township with such financial security necessary to ensure that the work be completed in an amount of not more than 110% of the total cost of the work.

- w.) After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the Township, the South Fayette Township Fire Chief and the PA DEP inspectors all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately upon knowledge that a spill, leak or malfunction occurs and alert the Township of any spills, leaks or malfunctions.
- x.) The public street entrance at the property on which a drill site is located shall at all times be kept free of mud, debris, trash or other waste materials.
- y.) The facility and/or its operation shall comply with all applicable permits and requirements of the PA DEP, the United States Environmental Protection Agency, and any other governmental authority having jurisdiction over its operations and with all federal, state and local laws, ordinances and regulations promulgated to protect the environment or otherwise relating to environmental matters. The applicant shall demonstrate that the drill site operations will not violate the citizens of South Fayette Township's right to clean air and pure water as set forth in Art. 1 Sec. 27 of the Pennsylvania Constitution. (The Environmental Rights Amendment). The applicant will have the initial burden to demonstrate that its operations will not affect the health, safety or welfare of the citizens of South Fayette Township or any other potentially affected landowner. The application submittal shall include reports from qualified Environmental individuals attesting that the proposed location will not negatively impact the Township Residents' Environmental Rights and will include air modeling and hydrogeological studies as potential pathways that a spill or release of fluid may follow.
- z.) The applicant or drill site operator shall take all necessary precautions to ensure the safety of persons in areas established for road crossings and/or adjacent to roadways, during periods of anticipated heavy or frequent truck traffic to and from the drill site. Flagmen shall be present and used to ensure the safety of motorists and pedestrians and take measures that may include adequate signs and/or other warning measures for truck and vehicular traffic.
- aa.) All drill site construction (grading, installation of erosion & sedimentation controls, roadway construction, etc.) shall be done between the hours of 7:00 am to 7:00 pm Monday through Saturday. Any burning of trees or brush shall be done in accordance with applicable regulations using an air curtain.

- bb.) During the active operation at a drill site, Township Staff or consultants designated by the Township Manager shall have access to the site to determine continuing compliance with the conditional use approval.
- cc.) South Fayette Township reserves the right to impose any other additional conditions necessary to protect the public health, safety and welfare of its residents in order to address any unique characteristics of a particular drilling site which are not otherwise within the jurisdiction of federal and state regulations in accordance with the Pennsylvania Municipalities Planning Code (MPC).
- dd.) Indemnification and Express Negligence Provisions –
The Applicant shall fully defend, protect, indemnify, and hold harmless South Fayette Township, its departments, officials, officers, agents, employees and contractors from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, legal and expert fees, and expenses incurred in defense of South Fayette Township including, without limitation, personal injuries and death in connection therewith which may be made or asserted by any third parties on account of, arising out of, or in any way incidental to or in connection with the performance by the operator.

(55) Natural gas compressor station and natural gas processing plant, subject to:

I. Compressor Stations

- a) Compressor stations shall only be permitted to occur on property that is a minimum of five (5) acres or larger. The Applicant shall strive to consider locations for its temporary and permanent operations where prudent and possible so as to minimize interference with Township residents' enjoyment of their property and future Township development activities. The Applicant must present an expert witness testimony to demonstrate the location of the facility will not unreasonably adversely affect any of the following:
 - a. Lawful existing or authorized uses of adjacent properties
 - b. Neighboring flood-prone or landslide prone areas
 - c. Agriculture and farmland
- b) A Conditional Use application for a compressor station shall be accompanied with written permission from the property owner(s) who has legal or equitable title in and to the surface rights of the property or a court order recognizing the Operator's authority to occupy the surface. If the operator owns the property, proof must be provided.

- c) Conditional Use approval is non-transferable without consent from the Board of Commissioners, and shall automatically terminate, unless extended, if substantial construction is not commenced and sustained within one (1) year from the date of issuance of the conditional use. The conditional use approval may be extended by the Board of Commissioners upon written request by the Operator. The Operator shall provide proof that the requested conditional use permit for such location has not changed.
- d) As part of the Conditional Use application, the Township and emergency management services shall be provided the name of the person supervising the compressor station and a phone number where such person can be reached twenty-four (24) hours a day. Also, a list of contact information for all sub-contractors associated with the operations of the station must be provided. The list shall include verification that all supervisors/operators and sub-contractors at the site are aware and understand this ordinance.
- e) All compressor stations shall be completely enclosed by a building.
 - a. The building shall be constructed in a manner that the architectural character complements the existing character of the area. The building shall employ architectural features including but not limited to sloped roofs, stone and brick accents, steeples, cupolas, etc.
 - b. The building shall employ sound proof type walls and all equipment associated with the compressor station shall be enclosed within the building. All acoustical structures shall be constructed of metal, masonry, or other structurally sound material as approved by the Township Engineer/Zoning Officer.
- f) Access directly to state roads shall require Pennsylvania Department of Transportation (PADOT) Highway Occupancy Permit approval. Prior to initiating any work at the station, the Township shall be provided a copy of the Highway Occupancy Permit. Access Roads shall also comply with the following:
 - a. Access roads must be 50' from adjacent property lines unless written consent is given.
 - b. First 50' must be paved. Then 150' must be limestone in a manner that reasonably minimizes water, sediments, or debris carried onto any public road.
 - c. If the access road is less than 200' the entire road must be limestone.
- g) The access driveway off the public road to the station shall be gated at the entrance to prevent illegal access into the site. The site assigned address shall be clearly visible on the access gate for emergency 911 purposes. In addition, the sign shall include the station name and number, name of the operator and

the telephone number for a person responsible who may be contacted in case of emergency.

- h) The Operator must provide a plan for the transmission of gas, water, oil, or other substances to and from the station. The Operator shall identify the location of, but not limited to, gathering lines, compressors, and other mid and downstream facilities located within the Township and extending 800 ft. beyond the Township boundary. The Operator shall provide the Township with all state and federal permits that have been acquired, and bonding agreements, and proof of ability to operate such pipelines.
- i) As part of the conditional use process, the Township reserves the right to increase any required setback based on physical characteristics of the site including but not limited to topography, woodlands, and distance from structures, parks, schools, and residential neighborhoods
- j) Compressor stations shall utilize electric motors rather than internal combustion engines. The Board of Commissioners may approve the use of internal combustion engines as part of the conditional use approval if deemed to be absolutely necessary, due to the prolonged lack of availability of electrical service. However, any exhaust from any internal combustion engine or compressor used in connection with the station, used by 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.
- k) Noise — The Township may require acoustical blankets, sound walls, mufflers or other alternative methods to ensure compliance depending on the location of a proposed station to adjacent residential properties. As part of the Conditional Use application, and prior to construction, the Operator shall establish the residual or background noise level baseline. The baseline shall be established over a seventy-two (72) hour period with at least one (1) twenty four (24) hour reading on a Saturday or Sunday. A noise consultant/engineer mutually agreed upon by the Township and owner/operator will be responsible for determining the residual background noise level baseline. The Operator shall be responsible for all costs associated with the noise consultant/engineer.
 - a. The noise generated during operating activities when measured at the nearest Protected Structure property line or one hundred feet from the nearest Protected Structure (as measure 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 hour evaluation:

- i. During station or plant activities by more than ten (10) decibels during the hours of 7:00 a.m. to 9:00 p.m.;
- ii. During station or plant activities by more than five (5) decibels during the hours of 9:00 p.m. to 7:00 a.m.

b. If a complaint is received by any person using a Protected Structure for a lawful purpose, within a reasonable vicinity of a compressor station, regarding noise generated by compressor station operations, the Township will conduct a sound test to verify that a viable complaint exists. Upon confirmation by the Township that a possible noise violation exists, the Operator shall, within twenty-four hours of the receipt of the complaint from the Township, continuously monitor for a forty-eight 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
- ii. One hundred feet from the Protected Structure, whichever is closer.

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, the Operator will meet with Township representatives and affected residents to discuss whether possible noise abatement measures are warranted, if the permitted levels set further herein were exceeded. The Township reserves the right to hire a noise consultant to do its own testing and investigation regarding the noise complaint.

- l) Drip pans must be placed in any location, under equipment, that has the potential to leak.
- m) All condensate tanks shall be equipped with vapor recovery and/or vapor destruction units.
- n) All structures including but not limited to pumping units, storage tanks, buildings, and structures shall be painted a neutral color, compatible with the surrounding uses. Neutral colors shall include sand, gray, green and unobtrusive shades of brown, or other neutral colors, as approved by the Township Engineer/Zoning Officer.
- o) Compressor stations shall be inspected by the fire department prior to operation. During the¹⁷ active operation at the compressor station

Township Staff or consultants designated by the Township Manager shall have access to the site to determine continuing compliance with the conditional use approval.

- p) Applicant will reimburse the Township for all reasonable and direct professional consultant fees incurred by the Township related to site inspection, approval process, or for specialized work called for in the permit.
- q) South Fayette Township reserves the right to impose any other additional conditions necessary to protect the public health, safety and general welfare of its residents in order to address any unique characteristics of a particular compressor station site which are not otherwise within the jurisdiction of federal and state regulations in accordance with the Pennsylvania Municipalities Planning Code (MPC).
- r) Indemnification and Express Negligence Provisions —
The operator shall fully defend, protect, indemnify, and hold harmless South Fayette Township, its departments, officials, officers, agents, employees and contractors from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, legal and expert fees, and expenses incurred in defense of South Fayette Township including, without limitation, personal injuries and death in connection therewith which may be made or asserted by any third parties on

account of, arising out of, or in any way incidental to or in connection with the performance by the operator.

- s) The facility and/or its operation shall comply with all applicable permits and requirements of the PA DEP, the United States Environmental Protection Agency and any other governmental authority having jurisdiction over its operations and with all federal, state and local laws, ordinances and regulations promulgated to protect the environment or otherwise relating to environmental matters. The applicant shall demonstrate that the compressor stations will not violate the citizens of South Fayette Township's right to clean air and pure water as set forth in Art 1, Sec. 27 of the Pennsylvania Constitution (The Environmental Rights Amendment). The applicant will have the initial burden to demonstrate that its operations will not affect the health, safety or welfare of the citizens of South Fayette Township or any other potentially affected landowner. The application submittal shall include reports from qualified Environmental individuals attesting that the proposed location will not negatively impact the Township residents' Environmental Rights and will include air modeling and hydrogeological studies as potential pathways that a spill or release of fluid may follow.
- t) The operator shall be required to provide notice of any spills and releases to the Township.

II. Processing Plants

- a) Processing plants shall only be permitted to occur on property that is a minimum of five (5) acres or larger. The Applicant shall strive to consider locations for its temporary and permanent operations where prudent and possible so as to minimize interference with Township residents' enjoyment of their property and future Township development activities. The Applicant must present an expert witness testimony to demonstrate the location of the facility will not unreasonably adversely affect any of the following:
 - i) Lawful existing or authorized uses of adjacent properties
 - ii) Neighboring flood-prone or landslide prone areas
 - iii) Agriculture and farmland
- b) A Conditional Use application for a processing plant shall be accompanied with written permission from the property owner(s) who has legal or equitable title in and to the surface rights of the property or a court order recognizing the Operator's authority to occupy the surface. If the operator owns the property, proof must be provided.
- c) Conditional Use approval is non-transferable without consent from Council, and shall automatically terminate, unless extended, if substantial construction is not commenced and sustained within one (1) year from the date of issuance of the conditional use. The conditional use approval may

be extended by Council upon written request by the Operator. The Operator shall provide proof that the requested conditional use permit for such location has not changed.

- d) As part of the Conditional Use application, the Township and emergency management services shall be provided the name of the person supervising the processing plant and a phone number where such person can be reached twenty-four (24) hours a day. Also, a list of contact information for all sub-contractors associated with the operations of the plant must be provided. The list shall include verification that all supervisors/operators and sub-contractors at the site are aware and understand this ordinance.
- e) Access directly to state roads shall require Pennsylvania Department of Transportation (PADOT) Highway Occupancy Permit approval. Prior to initiating any work at the plant, the Township shall be provided a copy of the Highway Occupancy Permit. Access Roads shall also comply with the following:
 - i) Access roads must be 50' from adjacent property lines unless written consent is given.
 - ii) First 50' must be paved. Then 150' must be limestone in a manner that reasonably minimizes water, sediments, or debris carried onto any public road.
 - iii) If the access road is less than 200' the entire road must be limestone.
- f) The access driveway off the public road to the plant shall be gated at the entrance to prevent illegal access into the site. The site assigned address shall be clearly visible on the access gate for emergency 911 purposes. In addition, the sign shall include the plant name and number, name of the operator and the telephone number for a person responsible who may be contacted in case of emergency.
- g) The Operator must provide a plan for the transmission of gas, water, oil, or other substances to and from the plant. The Operator shall identify the location of, but not limited to, gathering lines, compressors, and other mid and downstream facilities located within the Township and extending 800 ft. beyond the Township boundary. The Operator shall provide the Township with all state and federal permits that have been acquired, and bonding agreements, and proof of ability to operate such pipelines.
- h) The Township reserves the right to increase any required setback based on physical characteristics of the site including but not limited to topography, woodlands, and distance from structures, parks, schools, and residential neighborhoods.

- i) Processing plants shall utilize electric motors rather than internal combustion engines. The Board of Commissioners may approve the use of internal combustion engine or compressor used in connection with the plant, used by 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.

- j) Noise — The Township may require acoustical blankets, sound walls, mufflers or other alternative methods to ensure compliance depending on the location of a proposed plant to adjacent residential properties. As part of the Conditional Use application, and prior to construction, the Operator shall establish the residual or background noise level baseline. The baseline shall be established over a seventy-two (72) hour period with at least one (1) twenty four (24) hour reading on a Saturday or Sunday. A noise consultant/engineer mutually agreed upon by the Township and owner/operator will be responsible for determining the residual background noise level baseline. The Operator shall be responsible for all costs associated with noise consultant/engineer.
 - a. The noise generated during operating activities when measured at the nearest Protected Structure property line or one hundred feet from the nearest Protected Structure (as measure 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 hour evaluation:
 - i. During station or plant activities by more than ten (10) decibels during the hours of 7:00 a.m. to 9:00 p.m.;
 - ii. During station or plant activities by more than five (5) decibels during the hours of 9:00 p.m. to 7:00 a.m.

 - b. If a complaint is received by any person using a Protected Structure for a lawful purpose, within a reasonable vicinity of a processing plant, regarding noise generated by processing plant operations, the Township will conduct a sound test to verify that a viable complaint exists. Upon confirmation by the Township that a possible noise violation exists, the Operator shall, within twenty-four hours of the receipt of the complaint from the Township, continuously monitor for a forty-eight 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

- ii. One hundred feet from the Protected Structure, whichever is closer.

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, the Operator will meet with Township representatives and affected residents to discuss whether possible noise abatement measures are warranted, if the permitted levels set further herein were exceeded. The Township reserves the right to hire a noise consultant to do its own testing and investigation regarding the noise complaint.

- k) Drip pans must be placed in any location, under equipment, that has the potential to leak.
- l) All condensate tanks shall be equipped with vapor recovery and/or vapor destruction units.
- m) All structures including but not limited to pumping units, storage tanks, buildings, and structures shall be painted a neutral color, compatible with the surrounding uses. Neutral colors shall include sand, gray, green and unobtrusive shades of brown, or other neutral colors, as approved by the Township Engineer/Zoning Officer.
- n) Processing plants shall be inspected by the fire department prior to operation. During the active operation at the processing plant Township Staff or consultants designated by the Township Manager shall have access to the site to determine continuing compliance with the conditional use approval.
- o) Applicant will reimburse the Township for all reasonable and direct professional consultant fees incurred by the Township related to site inspection, approval process, or for specialized work called for in the permit.
- p) South Fayette Township reserves the right to impose any other additional conditions necessary to protect the public health, safety and general welfare of its residents in order to address any unique characteristics of a particular processing plant site which are not otherwise within the jurisdiction of federal and state regulations in accordance with the Pennsylvania Municipalities Planning Code (PAMPC).
- q) Indemnification and Express Negligence Provisions —
The operator shall fully defend, protect, indemnify, and hold harmless South Fayette Township, its departments, officials, officers, agents, employees and contractors from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, legal and expert fees, and expenses incurred in defense of

South Fayette Township including, without limitation, personal injuries and death in connection therewith which may be made or asserted by any third parties on account of, arising out of, or in any way incidental to or in connection with the performance by the operator.

- r) The facility and/or its operation shall comply with all applicable permits and requirements of the PA DEP, the United States Environmental Protection Agency and any other governmental authority 'having jurisdiction over its operations and with all federal, state and local laws, ordinances and regulations promulgated to protect the environment or otherwise relating to environmental matters. The applicant shall demonstrate that the compressor stations will not violate the citizens of South Fayette Township's right to clean air and pure water as set forth in Art 1, Sec. 27 of the Pennsylvania Constitution (The Environmental Rights Amendment). The applicant will have the initial burden to demonstrate that its operations will not affect the health, safety or welfare of the citizens of South Fayette Township or any other potentially affected landowner. The application submittal shall include reports from qualified Environmental individuals attesting that the proposed location will not negatively impact the Township residents' Environmental Rights and will include air modeling and hydrogeological studies as potential pathways that a spill or release of fluid may follow.

(56) Impoundments (being either a Water Impoundment Fresh or a Water Impoundment Waste), subject to:

- a) Impoundments shall be allowed only on the parcel/property where drilling site is occurring as an accessory use.
- b) No off-site impoundments, drill cuttings pits/reserve pits shall be permitted.
- c) Impoundments shall not use surface aerators.
- d) All drill site impoundments shall be secured with a temporary fence with a secured gate as follows:
 - 1. The fence shall be a minimum of six (6) feet in height and chain link.
 - 2. The fencing shall be in place throughout the drill operation and until the impoundment is removed.
 - 3. The chain link fence shall have a minimum thickness of eleven (11) gauges.
 - 4. Impoundments must comply with all state and federal laws in regard to leak detection and monitoring and must comply with EPA 9090 or any regulation that supersedes it.

5. Upon review of the application, Council may in its discretion require air modeling and monitoring of emissions coming off of impoundments.

- e) An impoundment shall not contain any liquid substance generated from any Oil Well(s) located on another property. Trucking in of outside liquid substance for storage in an impoundment is prohibited.
- f) Size limitation: Impoundments are permitted to house up to one (1) million gallons of liquid substance.
- g) An impoundment must be completely enclosed within a structure with a solid walls and a roof.
- h) An applicant shall provide to the Township a Preparedness, Prevention and Contingency (“PPC”) Plan as defined in the PADEP document Guidelines for the Development and Implementation of Environmental Emergency Response Plans or the most recent applicable guidance document.
- i) An applicant shall provide to the Township a baseline hydrogeologic study to document background conditions including but not limited to initial water quality testing, water level measurements, available secondary source information leading to an understanding of groundwater flow beneath the site and adjacent area.

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 clause or provision of this Ordinance is illegal, invalid or unenforceable under present or future laws effective during the term hereof, then the remainder of this Ordinance shall not be affected thereby. In lieu of each clause or provision of this Ordinance which is deemed to be illegal, invalid or unenforceable, there shall be added, as part of this Ordinance, a clause or provision as similar in terms to the unenforceable term as may be possible and as may be legal, valid and enforceable. In case any one or more of the provisions contained in this Ordinance shall for any reason be held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provision 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, the 13 day of July, 2016.

Attest:



Township Secretary

TOWNSHIP OF SOUTH FAYETTE

By: 

Joseph Horowitz, President
Board of Commissioners