

4-12-10^c

ORDINANCE NO. _____

**UNION TOWNSHIP
WASHINGTON COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF UNION TOWNSHIP,
WASHINGTON COUNTY, PENNSYLVANIA,
AMENDING THE UNION TOWNSHIP ZONING
ORDINANCE, ORDINANCE NO. 106, AS AMENDED,
SPECIFICALLY SECTION 202 "DEFINITIONS",
SECTION 1500 "EXPRESS STANDARDS AND
CRITERIA FOR GRANTING CONDITIONAL USES
AND USES BY SPECIAL EXCEPTION" TABLE 2:
NON-RESIDENTIAL PERMITTED USE CHART",
AND ADDING SECTION 1503.40 "OIL AND GAS
EXTRACTION; CONDITIONAL USES".**

WHEREAS, Union Township has the authority to adopt ordinances relating to the public health, safety and welfare of its residents; and

WHEREAS, Union Township believes that oil and gas extraction activity without proper regulation poses health and safety hazards to the residents of the Township; and

WHEREAS, Union Township deems it appropriate to enact regulations regarding activities associated with oil and gas extraction which are not otherwise within the jurisdiction of federal and state regulations and from which the Township is not preempted; and

WHEREAS, the Board of Supervisors of Union Township believes that it is appropriate to adopt an amendment to its Zoning Ordinance, as amended, regulating activities permitted by laws permitted by law involving the extraction of oil and gas; and

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Union Township, Washington County, Pennsylvania and it is hereby ordained and enacted as follows:

SECTION 1. PURPOSE

It is hereby declared to be the purpose of this ordinance to declare the development of oil and gas as a conditional use in all zoning districts within the Township. Union Township recognizes that the regulation of oil and gas operations is the responsibility of the regulatory

agencies of the Commonwealth of Pennsylvania, but that the Township maintains its zoning powers as set forth in Pennsylvania Statute Title 53, Municipality Planning Code (“MPC”). It is also the Township’s best interest to have information concerning oil and gas exploration, development, and production taking place within the Township and to ensure certain security and safety measures related to oil and gas well drilling activities are in place in certain areas.

SECTION 2. DEFINITIONS

Section 202. Definitions.

Be amended by adding the following:

Drilling – Means any digging or boring of a new well to explore, develop, or produce oil, gas or other hydrocarbons, or to inject gas, water or any other fluid of substance into the earth and in all cases any redrilling therein.

Drilling Equipment – Means the derrick, all parts and appurtenances to such structure, and every piece of apparatus, machinery, or equipment used, erected, or maintained for use in connection with drilling.

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 Facilities – Any facilities not mentioned herein and related to natural gas development must comply with the conditional use requirements herein.

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.

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.

Oil and Gas Drill Site – The oil and gas drill site shall consist of the area occupied by the facilities, structures, and equipment necessary for or incidental to the drilling, production or operation of an oil or gas well.

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 development. The term shall not include any well owned by an oil and gas lessor who has signed a lease with the operator granting surface rights to drill the subject well.

All other terms will be as defined in Pennsylvania’s Oil and Gas Act (Act 223) Title 58. Oil and Gas, Chapter 11, Oil and Gas Act.

SECTION 3. TABLE

“APPENDIX A” “TABLE OF AUTHORIZED USES”.

Be amended by adding the following:

SECTION 4. AMENDMENTS

Be amended by adding the following:

Section 1503.40. Oil and Gas Activity

Oil and gas drilling sites, natural gas compressor stations and natural gas processing plants shall be evaluated as a Conditional Use subject to the following express standards and criteria:

- A. A conditional use application shall be accompanied with written permission from the property owner(s) who have legal or equitable title in and to the surface of the drill site.
- B. The oil and gas drill sites shall only be permitted to occur on property in all zoning configurations and is a minimum of ten (10) contiguous acres or larger. Multiple property owners can combine adjoining parcels to achieve the minimum ten (10) acres required.
- C. Prior to beginning any work on a drill site, the applicant shall submit to the Township a copy of all permits (General, ESCGP-1) issued by the Pennsylvania Department of Environmental Protection (PA DEP). In addition, the Township shall be provided copies of all plans (erosion and sedimentation control, grading, etc) required by PA DEP. All required permits shall be maintained throughout the duration of the drilling operation. Any suspension or revocation of permits by PA DEP shall be reported to the Township and shall constitute a violation of Township zoning approval and may result in the suspension or revocation of zoning approval.
- D. 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.

- E. 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 collector, connector and local streets within the Township. The Township reserves the right to designate required truck hauling routes throughout the Township.
- F. The applicant or owner of the oil or gas well and any or all subcontractors shall execute an excess maintenance agreement with the Township for a permit 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 damaged as a result of hauling associated with the drilling operation.
- G. Use of Township roads for hauling equipment and material shall not be permitted when roads are being used to transport students to and from school. The operators shall coordinate their efforts with the local school district.
- H. In accordance with the appropriate Township ordinance, as amended, driveways accessing the drill site shall be paved with an impervious material from the paved public street for a distance of fifty (50) feet into the drill site. The impervious material shall be in place prior to the commencement of the drilling operation.
- I. The applicable volunteer fire departments, the Township EMS coordinator, the County EMS coordinator and the County 911 Office and the ambulance service provider shall be provided a list of all chemicals or waste products used or produced by the oil or gas drilling operation.

- J. The Township 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 for each day of the week.
- K. 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. The location of said gate shall be to the satisfaction of the Township.
- L. Lighting – No drill site lighting used for 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.
- M. Dust, vibration, odors. – All drilling operations shall be conducted in such a manner to minimize dust, vibration or noxious odors and shall be in accordance with the best accepted practices and to the Township complete satisfaction. 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.
- N. Noise – The Township may require acoustical blankets, sound walls, mufflers or other alternative methods to ensure compliance depending on the location of a

proposed drill site to adjacent residential properties and as more specifically set forth in this ordinance.

- O. All drill site pads, off-site fracture ponds, natural gas compressor station and natural gas processing plant 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, chain link with green fabric mesh.
 - 2. The fencing shall be in place throughout the drill operation and until the fracture pond is removed.
 - 3. The chain link fence shall have a minimum thickness of eleven (11) gauge.
- P. At the time of Conditional Use application, a survey of the drill site with all permanent facilities (tanks or other surface installations) with locations and distances to property lines shall be filed with the application.
- Q. All permanent facilities shall be painted an earth tone color to blend in with the surrounding area. The Township may require fencing and or landscaping to buffer the facilities from adjacent properties in accordance with Ordinance 106, as amended.
- R. After the drilling operation is complete, the drill operator shall clean the site, complete all restoration activities and repair any damage to public property caused by such operations within sixty (60) days. Operator shall maintain a six (6) foot chain link fence around the established wellhead site.
- S. After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the applicable volunteer fire department chief, Township EMS coordinator, County EMS coordinator, County 911 Office 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.

- T. The public street entrance and the property on which a drill site is located shall at all times be kept free of mud, debris, trash or other waste materials.
- U. The facility and/or its operation shall comply with all applicable permits and requirements of the Pennsylvania Department of Environmental Protection, the United States Environmental Protection Agency, and any other governmental authority having jurisdiction over its operations and with all federal, state and local laws, ordinance and regulations promulgated to protect the environment or otherwise relating to environmental matters.
- V. Union 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.
- W. All applicants for a conditional use shall reimburse Union Township all professional consultant fees, advertising and cost of public hearings incurred by the Township related to application for activities authorized by this ordinance. Additionally, all applicants shall reimburse the Township for consulting fees and cost incurred in enforcing this ordinance upon a finding of violation by a District Justice.
- X. All applicants submitting a conditional use request, per production operation, for activities authorized by this ordinance shall do so on an application form provided by Union Township and shall submit an application fee in the amount of Two Thousand Five Hundred and 00/100 (\$2,500.00) Dollars, which fee shall be applied to the costs referenced in this ordinance, as amended. All applicants will

be invoiced on a monthly basis for the costs referenced in Section 11 herein, and such costs will be due within thirty (30) days of mailing. This fee may be amended by resolution. Any costs that exceed said fee shall be the responsibility of the applicant.

- Y. A Preparedness Prevention and Contingency Plan, as required by and filed with the Pennsylvania Department of Environmental Protection, shall be submitted to the Township, volunteer fire department, Township EMS coordinator and County EMS coordinator.
- Z. The applicant agrees to provide an Emergency Response Plan for local fire departments, Township EMS coordinator and County EMS coordinator as follows: During the well drilling activities, the fire department or departments will be directed by the well company's competent person on the scene on how to handle the situation at hand. After well drilling activities are completed, when no competent person is on site, evacuate and isolate the area three hundred fifty (350) feet around the affected site and contact the Department of Environmental Protection emergency response number, 1-800-541-2050. If there is a life or death situation after well drilling activities are completed and someone is in the immediate danger zone, the officers of the fire department shall use their best judgment to make sure there are no dangers such as fire, electrocution, high pressure release, etc. Best judgment is to be used while maintaining a perimeter and waiting for well company personnel to arrive or advise.
- AA. Applicants must file a Conditional Use Application and pay the required application fees. The application must contain the following information:

1. Survey of the drilling unit and the approximate location of the proposed well site or well sites.
2. A calendar concerning well site development and drilling activities that indicates the following:
 - (i) Site preparation beginnings and endings.
 - (ii) Anticipated drilling activity beginnings and endings.
 - (iii) Anticipated completion (perforating) work to begin and end.
 - (iv) Anticipated stimulation (fracturing) work to begin and end.
 - (v) Anticipated production work to begin and end.
 - (vi) Anticipated plugging date.
3. A list and description of all equipment weighing in excess of ten (10) tons and identification of the proposed routing of vehicles on Township roads.
4. A copy of applicant's preparedness, prevention and contingency (PPC) plan.
5. Outline of training program for Township's first responders.
6. Information on lighting at the drill site and wellhead or any other area being developed.
7. Information on anticipated noise levels at drill site.
8. A map showing the planned access route to the well site from public roads.
9. A description of the size and composition of the access road to be installed to the drill site.

10. Applicant's erosion and sedimentation control plan.
11. A well survey plat showing the planned surface location of the wells and a list of the property owners in the well unit, and acreage participation by each landowner.
12. Copy of Drilling Permit issued by the Pennsylvania Department of Environmental Protection (DEP).
13. Grading and excavation plan for drill site.
14. Information concerning construction trailers to be located on the site.
15. Compressor station – building plans.
16. Copy of applicable stormwater permit issued by any and all appropriate state agencies.

BB. Township recognizes and acknowledges that oil and gas development is accompanied by inherent noise. However, the operator shall take the following steps to minimize, to the extent practicable, the noise resulting from the development:

1. Prior to development of a 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. The sound level meter used in conducting this 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.

2. The operator shall maintain documentation of this seventy-two (72) hour evaluation at its offices. This documentation shall be made available to the Township's Zoning Officer within three (3) business days upon request.
3. The noise generated during development, 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):
 - (i) by more than seven (7) decibels during the hours of 6:00 a.m. to 10:00 p.m.:
 - (ii) by more than five (5) decibels during the hours of 10:00 p.m. to 6:00 a.m.; or
 - (iii) by more than ten (10) decibels during fracing or flowback operations.
4. 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 one hour.

5. If a complaint is received by the Township from any person, whether a resident or otherwise using the protected structure for any lawful purpose, within one thousand (1,000) feet from the wellhead or equipment generating noise, the operator shall, within twenty-four (24) hours of receipt of the complaint from the Township, continuously monitor for a forty-eight (48) hour period which is the closer to the complainant's building of:
 - (i) the complainant's protected structure property line nearest to the wellsite or equipment generating the noise, or
 - (ii) one hundred (100) feet from the protected structure.
6. All workover operations shall be restricted to the hours of 7:00 a.m. to 8:00 p.m., except during emergencies, 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.

SECTION 5. SEVERABILITY

That if any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct and independent provision and such holding shall not affect validity of the remaining portions thereof.

SECTION 6. REPEALER

That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 7. EFFECTIVE DATE

That this ordinance shall be in full force and effect from and after its passage and approval.

ORDAINED AND ENACTED INTO LAW by the Board of Supervisors of Union Township, Washington County, Pennsylvania, this _____ day of _____, 2010.

**TOWNSHIP OF UNION
BOARD OF SUPERVISORS**

By: _____
Stephen J. Parish, Jr., Chairman

By: _____
Larry A. Spahr, Vice Chairman

By: _____
Scott P. Tkach

By: _____
Linda S. Evans

By: _____
Andrew M. Tullai

ATTEST:

Judith L. Taylor, Secretary/Treasurer

(SEAL)