

## Section 240-61 “Oil and Gas Development”

### A. Purpose.

- (1) This section has two purposes. The first purpose is to repeal both Ordinance No. 3-2011 and Ordinance No. 2-2010, which previously provided for the zoning of oil and gas development in Cecil Township.
- (2) It is further hereby declared to be the purpose of this section to amend the Cecil Township Zoning Ordinance such that oil and gas development is a conditional use in areas identified in an oil and gas overlay district within the Township, which shall be established in a separate ordinance.
- (3) Cecil Township recognizes that the regulation of oil and gas operations is the primary responsibility of the regulatory agencies of the Commonwealth of Pennsylvania but that the Township maintains its zoning powers as set forth in Pennsylvania Statutes Title 53, the Municipalities Planning Code (“MPC”), and through the Township of Cecil subdivision and land development or zoning ordinances. It is in the Township's best interest to address the zoning districts where such activities are sought to be undertaken and to have information concerning oil and gas exploration, development and production taking place within the Township and to ensure certain security and safety measures related to oil and gas well drilling are in place in certain areas if approved.
- (4) The Board of Supervisors will make a decision on the conditional use application within 60 days following receipt by the Zoning Officer of a complete application. A written decision will follow the vote of the Board of Supervisors within 45 days of the Board's decision.

### B. Definitions. As used in this section, the following terms shall be interpreted or defined as follows:

#### **EXPLORATION**

Temporary geologic or geophysical activities such as drilling in context with the zoning definition in this chapter, including seismic surveys related to the search for natural gas or other subsurface hydrocarbons.

#### **FLOWBACK**

The process of flowing a completed/fractured well for the purpose of recovering water and residual sand from the gas stream prior to sending gas down a sales line.

#### **FRACTURE or FRACKING**

The process of injecting water, sand, customized fracking fluid, steam or gas into a gas well under pressure to improve gas recovery.

#### **NATURAL GAS COMPRESSOR STATION**

A facility designed and constructed to compress natural gas that originates from an oil and gas well or collection of such wells operating as a midstream facility for delivery of oil and gas to a transmission pipeline, distribution pipeline, natural gas processing plant

or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

### **NATURAL GAS PROCESSING PLANT**

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

### **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 DEVELOPMENT or DEVELOPMENT**

The well site preparation, well site construction, drilling, hydraulic fracturing, and/or site restoration associated with an oil and gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; the installation and use of all associated equipment, including tanks, meters and other equipment and structures, whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of oil and gas, other than natural gas compressor stations and natural gas processing plants or facilities performing the equivalent functions that operate as midstream facilities. Natural gas compressor stations and natural gas processing plants or facilities performing the equivalent functions that operate as midstream facilities are only authorized consistent with the Township of Cecil subdivision and land development and zoning ordinances.

### **OPERATOR**

Any person, partnership, company, corporation, and its subcontractors and agents, which has an interest in real estate for the purpose of exploring or drilling for, producing or transporting oil or gas.

### **PIPELINE**

All parts of those physical facilities through which gas, hazardous liquids, fresh water, salt water or chemicals move in transportation, including but not limited to pipe, valves and other appurtenance attached to pipe, whether or not laid in public or private easement or public or private right-of-way within the Township, including, but not limited to, gathering lines, production lines and transmission lines. This definition does not include pipelines associated with franchise utilities.

### **PROTECTED STRUCTURE**

Any occupied residence, commercial business, school, religious institution or other public building located within 1,500 feet of the surface location of a well that may be impacted by noise, emissions, light or other negative attributes of drilling operations, including but not limited to oil and gas development activities as defined herein, generated from drilling or hydraulic fracturing activity at a well site.

#### **RESIDUAL WASTE**

Garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid or contained gaseous materials, resulting from industrial, mining, drilling or agricultural operations and sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, if it is not hazardous.

#### **TOWNSHIP**

Cecil Township, Washington County, Pennsylvania.

#### **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 wastewater, including but not limited to brine, fracturing fluid or residual waste.

#### **WELL SITE**

A graded pad designed and constructed for the drilling of one or more oil and gas wells.

- C. Zoning. Cecil Township hereby declares that oil and gas development is defined as a conditional use in the Oil and Gas Recovery Overlay District as identified on the Official Zoning Map of the Township that is hereby attached as Exhibit A. The use shall be subject to the following standards: If the proposed use is granted, consistent with § 240-13F of this chapter, in addition to the conditions listed below, Cecil Township shall impose any and all reasonable safeguards or conditions necessary to implement the intent of this chapter and shall review the particular facts and circumstances of each proposed conditional use application in terms of the following standards listed in § 240-13F of this chapter (repeated in Subsection C(1) herein) as well as more specific criteria as set forth in the remaining paragraphs herein. Applicant shall have the duty and the burden to prove compliance with the specific conditions set forth herein and by way of this chapter. Applicant shall bear the burden of persuasion to demonstrate that the proposed conditional use will not have detrimental effects on the health, safety and welfare of Township residents relative to any additional conditions.
- (1) The proposed conditional use will be harmonious with and in accordance with the general objectives or with any specific objective of the Township's Comprehensive Plan; will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not

change the essential character of the same area; will not be hazardous or disturbing to existing neighboring uses; will be served adequately by essential facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools or the persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such services; will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community; will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors; will have vehicular approaches to the property which shall be designed so as not to create interference with traffic on surrounding public thoroughfares; will not result in the destruction, loss or damage of a natural, scenic or historic feature of significant importance.

- (2) Operator shall comply with any generally applicable bonding and permitting requirements for Township roads that are to be used by overweight vehicles and equipment for development activities.
- (3) Operator shall take the necessary safeguards to ensure that the Township roads utilized shall remain free of dirt, mud and debris resulting from development activities and/or shall ensure such roads are promptly swept or cleaned if dirt, mud and debris occur.
- (4) Operator shall take all necessary precautions to ensure the safety of persons in areas established for road crossing and/or adjacent to roadways (for example, persons waiting for public or school transportation). Where necessary and permitted, during periods of anticipated heavy or frequent truck traffic associated with development, 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. The operator will coordinate its efforts with school districts so as to minimize heavy truck traffic during the hours school buses are picking up or dropping off children.
- (5) Operators shall establish "safety zones" around drill sites. Said safety zones will be established to minimize local impacts, and said zones shall be determined on a site-by-site basis.
- (6) The operator shall not clear brush or trees by way of burning and shall chip, grind or remove all tree stumps from properties it clears for development purposes. However, the operator shall be permitted to, consistent with Cecil Township's relevant outdoor burning ordinance(s), burn any brush, trees or stumps that have been removed from the ground and collected into a pile or piles on the properties where the operator is engaging in development.
- (7) Before drilling, the Township shall ascertain whether the Township's first responders have secured adequate information to deal with any potential dangerous conditions that may result due to development activities. First responders shall have on-site orientation and be provided adequate awareness information. Upon request from the Township, the operator will, prior to drilling of an oil and gas well, make available with at least 30 days' notice, at its sole cost and expense, an appropriate site orientation for first responders. Such site orientation shall be made available at least annually during the period when the operator anticipates drilling activities in the Township. In addition, at the operator's expense, the operator shall facilitate training of the Township's first responders by a

company that solely performs said function on a daily basis during its course and scope of business.

- (8) The operator shall take the necessary safeguards to ensure appropriate dust-control measures are in place.
- (9) Except in an emergency, no bullhorns should be used as a means of communication on the drill site.
- (10) 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 the operator shall strive to consider location of 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 as authorized by the Township of Cecil subdivision and land development and zoning ordinances.
- (11) Recognizing that adequate and appropriate lighting is essential to the safety of those involved in the development of oil and gas, the operator shall take steps, to the extent practicable, to direct site lighting downward and inward toward the drill site, wellhead or other area being developed so as to attempt to minimize glare on public roads and adjacent buildings within 500 feet of the drill site, wellhead or other area being developed.
- (12) Prior to drilling an oil and gas well or multiple oil and gas wells at a location, but no later than two 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 location(s) of the planned well(s);
  - (b) A general description of the planned operations at the planned well(s) and associated equipment used in the development of the well(s);
  - (c) The contact information for the operator; and
  - (d) The availability of the operator to hold a meeting with such residents to present operator's plan for the well(s) and to allow for questions and answers. The meeting(s) shall be held prior to well site construction.
- (13) Application fee in the amount of \$2,500 shall be paid by the operator/applicant for the purposes of payment for expenses incurred or to be incurred by the Township associated with all the administration of the application. Fees may be adjusted by the Township Board of Supervisors from time to time by resolution.
- (14) To the extent that the same is not otherwise included or provided within copies of applications for permits from the Commonwealth of Pennsylvania or other governmental units related to the development of a well site, the operator/applicant and/or its contractors shall, as part of the conditional use application, furnish to the Township a certificate of liability insurance naming the Township as an additional insured with respect to operations conducted within the Township, and showing liability insurance coverage covering commercial, personal injury, and general liability in the amounts not

less than \$1,000,000 per person, \$10,000,000 per occurrence, and \$5,000,000 property damage.

- (15) Applications filed for conditional use shall be in accordance with Article IV of this chapter and Article III of Chapter 210, Subdivision and Land Development, of this Code, as amended. The operator/applicant of a filed application shall submit a preparedness, prevention and contingency ("PPC") plan at time of filing such application. In addition to the plan submittal requirement of Ordinance No. 5-2000, the site plan shall be prepared by a licensed engineer of the commonwealth and shall be provided to establish compliance with all applicable regulations. The site plan shall include but not be limited to drilling and production operations, including derricks, vacuum pumps, storage tanks, vehicle parking structures, machinery, temporary housing, ancillary equipment and facilities, as part of the conditional use application.
- (16) Right of entry. The authorized Township official may enter the premises or structure during normal business hours to verify or enforce provisions of this chapter. If premises or structure is unmanned, access shall be granted within 24 hours of notification to the operator/applicant or if there is reasonable cause to believe a condition exists on the premises which violates the ordinance, constituting an unsafe condition.
- (17) The operator/applicant shall provide training of Cecil Township first responders and site orientation prior to the issuance of a certificate of occupancy, temporary or permanent. Training shall be at the sole cost and expense of the operator/applicant
  - (a) In the event an emergency, including but not limited to product loss (liquid, gaseous or solid), regardless of quantity; equipment malfunction; fire or explosion; incident resulting in injury, fatalities, property damage; or any other significant incident, the operator/applicant shall immediately notify the Washington County 911 Center.
- (18) In addition to the requirements in Subsection C(1) through (15) above, the operator shall:
  - (a) Install bird netting over frack water impoundments.
  - (b) Install warning signs providing notice of the potential dangers at the well site.
  - (c) Provide at least one security guard 24/7 at all times when drilling rig or hydraulic fracturing equipment is on the well site.
  - (d) Provide warning signs and post contact information at the entrance to the site.
  - (e) If a freshwater or frack water impoundment is not located on the drill site but will be utilized and located as a centralized impoundment, the company seeking the centralized impoundment will need to make a separate application for conditional use approval with the Township.
- (19) Prior to the commencement of drilling activities, no construction activities involving excavation of, alteration to, or repair work on any access road or well site shall be performed during the hours of 10:00 p.m. to 6:00 a.m.

- (20) Operator shall be responsible to pay the Township's reasonable attorneys' fees and engineering and expert costs borne by the Township in connection with the conditional use application and hearing process.
- (21) Coal bed methane and conventional oil and gas well drilling and completion activities, i.e., those wells drilled to depths shallower than the base of the elk sandstone or its stratigraphic equivalent and such oil and gas wells that are planned to involve drilling of a single well on a well site for no more than seven consecutive days total in any calendar year, can request a waiver from the Board of Supervisors from any condition set forth herein if, in the sole discretion of the Board of Supervisors, the conditions are not necessary to protect the health, safety and welfare of the residents.
- (22) Township recognizes and acknowledges that oil and gas development is accompanied by inherent noise. However, the operator shall take the following steps to minimize, to the extent practicable, the noise resulting from the development:
- (a) Prior to drilling of an oil and gas well, the operator shall establish a continuous seventy-two-hour ambient noise level at the nearest protected structure property line or 100 feet from the nearest protected structure (as measured to the closest exterior point of the building), whichever is closer to the protected structure, or alternatively, and in lieu of establishing the above seventy-two-hour ambient noise level, the operator may assume and use, for the purposes of compliance with this chapter, a default ambient noise level of 55 dBA. The sound level meter used in conducting any evaluation shall meet the American National Standard Institute's standard for sound meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.
  - (b) The operator shall provide documentation of any established seventy-two-hour evaluation relied upon to establish an ambient noise level greater than 65 dBA to the Township's Zoning Officer within three business days of such a request from the Zoning Officer.
  - (c) Ambient noise level.
    - [1] The noise generated during drilling and hydraulic fracturing activities when measured at the nearest protected structure property line or 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-hour evaluation) or default level, whichever is higher:
      - [a] During drilling activities by more than seven decibels during the hours of 6:00 a.m. to 10:00 p.m.;
      - [b] During drilling activities by more than five decibels during the hours of 10:00 p.m. to 6:00 a.m.; or
      - [c] By more than 10 decibels during hydraulic fracturing operations.
    - [2] The operator shall inform the Township of which level (average ambient noise level or default level) is being used.

- (d) Adjustments to the forgoing noise limits may be permitted in accordance with the following:

<b>Permitted Increase (dBA)</b>	<b>Duration of Increase (minutes)*</b>
5	15
10	5
15	1
20	1

NOTES:

\* Cumulative minutes during any one hour.

- (e) If a complaint is received by the Township from any person, whether a resident or otherwise, using the protected structure as defined herein for any lawful purpose, regarding noise generated during drilling or hydraulic fracturing activities, the operator shall, within 24 hours of 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:
- [1] The complainant's protected structure property line nearest to the well site or equipment generating the noise; or
  - [2] One hundred feet from the protected structure.
- (f) If the operator engages in any noise testing as required by this section, it will provide preliminary data to the Township no later than 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 forth herein were exceeded.
- (g) Exhaust from any internal combustion engine or compressor used in connection with the drilling of any well or for use on any production equipment or used in development shall not be discharged into the open air unless it is equipped with an exhaust muffler or an exhaust box. The exhaust muffler or exhaust box shall be constructed of noncombustible materials designed and installed to suppress noise and disruptive vibrations. Moreover, all such equipment with an exhaust muffler or exhaust box shall be maintained in good operating condition according to manufacturer's specifications.
- (h) All work-over operations shall be restricted to the hours of 6:00 a.m. to 10:00 p.m., except in the extent of an emergency, as reasonably determined by the operator. "Work-over operations" shall mean work performed in a well after its completion in an effort to secure production where there has been none, restore production that has ceased, or increase production.
- (i) To the extent condensate tanks are utilized at or around the drill site, operator shall install the best technology available to eliminate, capture or destroy any and all emissions emanating from these tanks. Said means shall include the installation of vapor destruction and/or vapor recovery units.



- (j) An operator shall notify the Cecil Township Manager and Zoning Officer no later than three days before fracking or flaring activities are set to begin at the well site. An operator will notify 911 of both fracking and flaring activities pursuant to the same time frame.
- (k) If a spill, fire or other violation of any federal, state or local law occurs at the drill site or in the Township by the operator or its subcontractors, the operator will notify the Township immediately, in all circumstances not later than 24 hours after the incident occurred or, if the incident is ongoing, not later than 24 hours after it began.
- (l) Bunk housing of site workers is not permitted at any well location or anywhere within the Township. In addition, bunk housing of site workers is not permitted by the Cecil Township subdivision and land development or zoning ordinances. The Township acknowledges that certain supervisory personnel (generally not to exceed six to seven individuals at any one time) are required for reasons of safety to be present at the multi-well drilling pad to which this conditional use approval relates on a continuous basis during certain operations, and resting accommodations for such supervisory personnel are not affected by the foregoing condition. Prior to utilizing any such accommodations, the operator shall provide to the Township a list of the job titles which constitute supervisory personnel.

D. Penalties. Any operator or person performing work at his direction who violates or permits a violation of this section shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$1,000 per day the violation exists, plus all court costs, including reasonable attorneys' fees incurred by the Township in the enforcement of this section. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to issue a cease and desist notice and/or to seek equitable relief, including injunction, to enforce compliance herewith. No bond will be required if injunctive relief is sought by the Township. A person who violates this section shall also be responsible for the Township's attorney's fees, engineering fees, expert fees and court costs associated with enforcement.

E. Severability and interaction with other ordinances.

- (1) This section shall be construed against invalidation. If any provision of this section shall be determined to be invalid, illegal, unenforceable or in conflict with any law that preempts part(s) of this section, the validity, legality and enforceability of the remaining provisions of this section shall not be impaired in any way.
- (2) This section is to be understood and applied in conjunction with other applicable ordinances enacted by Cecil Township, particularly any amendment to the this chapter that creates a natural gas development overlay district. In the event that a natural gas development overlay district is not established or is invalidated in any manner, natural gas development shall be a conditional use in all zoning districts of Cecil Township.