

ORDINANCE NO. 2015-1
TOWNSHIP OF WINFIELD
BUTLER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF WINFIELD,
BUTLER COUNTY, PENNSYLVANIA, AMENDING
CURRENT PROVISIONS OF ITS ZONING ORDINANCE,
SETTING FORTH ITS AUTHORITY TO REGULATE OIL AND
GAS OPERATIONS.

WHEREAS, the Township of Winfield has enacted a consolidated Zoning Ordinance, Ordinance No. 07-05, on September 27, 2007; and

WHEREAS, the Winfield Township Board of Supervisors has the power to protect the health, safety, and welfare of the people and property in the Township; and

WHEREAS, the Winfield Township Zoning Ordinance as currently written does not expressly provide for the use or regulation of oil and gas operations; and

WHEREAS, the Winfield Township Board of Supervisors desires to expressly provide for the use and regulation of oil and gas operations within the Township.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Winfield Township Board of Supervisors that the Township Zoning Ordinance, Ordinance No. 07-05, is amended as follows:

SECTION 1. ARTICLE III, §3.01 Definition of Terms, is amended by adding the following new terms and definitions (underscoring language):

ENVIRONMENTAL ACTS: All statutes enacted by the Commonwealth relating to the protection of the environment or the protection of public health, safety and welfare, that are administered and enforced by the Pennsylvania Department of Environmental Protection (DEP) or by another Commonwealth agency, including an independent agency, and all federal statutes relating to the protection of the environment, to the extent those statutes regulate oil and gas operations.

NATURAL GAS: A fossil fuel consisting of a mixture of hydrocarbon gases, primarily methane, and possibly including ethane, propane, butane, pentane, carbon dioxide, oxygen, nitrogen and hydrogen sulfide and other gas species. The term includes natural gas from oil fields known as “non-associated” gas, coal beds, shale beds and other

formations. The term does not include coal bed methane.

NATURAL GAS COMPRESSOR STATION: A facility designed and constructed to compress natural gas that originates from an oil and gas well site development or collection of such wells operating as a midstream facility for delivery of natural 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. The term shall not include condensate removal and compression at the well site.

NATURAL GAS PROCESSING PLANT: A facility that is not a natural gas compressor station and which is designed and constructed to remove materials and gases 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.

OIL AND GAS WELL SITE DEVELOPMENT: The term includes the following: well location assessment, including seismic operations, well site preparation, construction, drilling, water or fluid storage operations, hydraulic fracturing and site restoration associated with an oil and gas well of any depth. The term includes conventional (vertical) and non-conventional (vertical or horizontal) methods of drilling.

UNCONVENTIONAL GAS WELL: A bore hole drilled or being drilled for the purpose of, or to be used for, the production of natural gas from an unconventional formation.

SECTION 2. ARTICLE V, §5.01 Uses Common to All, is amended as follows (underscored language):

3. Notwithstanding anything set forth in this zoning ordinance a single family home, agricultural uses, and/or oil and gas drilling well site operations and plants where allowed may be combined on a single lot zoned residential/agriculture (R/A Districts); or on a single lot zoned commercial or manufacturing (C or M).

SECTION 3. ARTICLE V, §5.02 Permitted Uses, is amended as follows (underscored

language):

RESIDENTIAL/AGRICULTURAL DISTRICT (RA)

Permitted Principal Uses:

15. Oil and Gas Well Site Development, subject to §5.04.

Permitted Accessory Uses:

6. Oil and Gas Well Site Development, subject to §5.04.

Conditional Uses (See Article VII):

12. Natural Gas Compressor Station, subject to §5.04.

COMMERCIAL DISTRICT (C)

Permitted Principal Uses:

13. Oil and Gas Well Site Development, subject to §5.04.

Permitted Accessory Uses:

4. Oil and Gas Well Site Development, subject to §5.04.

Conditional Uses (See Article VII):

7. Natural Gas Compressor Station, subject to §5.04.

MANUFACTURING DISTRICT (M)

Principal Permitted Uses:

3. Oil and Gas Well Site Development, subject to §5.04.

4. Natural Gas Compressor Station, subject to §5.04.

Conditional Uses (See Article VII):

7. Natural Gas Processing Plant, subject to §5.04.

SECTION 4. ARTICLE V, §5.04 Limitations on Uses, is amended by adding the following (underscored language):

6. OIL AND GAS WELL SITE DEVELOPMENT

1. A company, entity or person desiring to engage in Oil and Gas Well Site Development shall obtain a Zoning Certificate/Permit from the Township Zoning Officer.

2. Application Requirements. The Application must include the following information:

a. A written narrative signed and dated by the applicant, describing the proposed use as well as an approximate time line for the proposed

development.

- b. Written authorization from the property owner(s) who has legal or equitable title in and to the surface or oil and gas estate of the proposed Development. A copy of the oil and gas, mineral or other lease agreement or similar document vesting legal or equitable title to the subsurface will constitute written agreement.
- c. The name and address of each property owner for each property within 1,000 feet of the proposed well, as well as all abutting property owners.
- d. A copy of the Applicant's Erosion and Sediment Control Plan (ESCGP-2) (if applicable) and Post-Construction Stormwater Management Plan sealed by a licensed professional (e.g. engineer, surveyor, geologist or landscape architect) who is registered in Pennsylvania. Said professional must have attended training provided by Pennsylvania Department of Environmental Protection, Office of Oil and Gas Management on erosion and sediment control and post construction stormwater management for oil and gas activities.
- e. A road access plan that shows both temporary and permanent access routes and identifies all ingress and egress points.
- f. If any weight-restricted Township roads will be used by Applicant for any oil and gas development or operations, Applicant shall comply with any applicable Township ordinances, PennDOT regulations, Township road bonding requirements, and provide proof of bonding of said roads and enter into a road maintenance agreement with the Township. In lieu of road bonding, the Township and Applicant may mutually agree to other terms to provide for restoration of the affected road(s).
- g. A copy of Highway Occupancy Permits and other permits already obtained at the time of the application submission. If no such permit has been obtained, the Applicant shall provide a copy of its application for the HOP and an approved permit when obtained. A driveway permit shall be required if the entrance to the site is on a Township road.
- h. A copy of the Applicant's Preparedness, Prevention and Contingency Plan.

- i. The name of an individual or individuals and their emergency contact information should be provided for the Township or for residents to report emergencies 24 hours a day each day of the week.
 - j. Fee reimbursement. The applicant agrees to reimburse the Township for all fees permitted under Section 617.3(e) of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10617.3(e).
3. Minimum Lot Requirement. Oil and Gas Well Site Development shall only be permitted to be located on property that is a minimum of five (5) acres for a vertical unconventional well site and ten (10) acres or larger for a nonvertical unconventional site. Multiple properties may be combined to meet the five (5) or ten (10) acre applicable minimum acreage. If a company desires to develop a conventional well pad site, they must adhere to all DEP regulations and setbacks.
4. State and Federal Compliance. The Applicant shall comply with all applicable state and federal regulations and shall show evidence of obtaining the required state and/or federal permits, including proof of insurability, before initiating any work and maintaining the required permits throughout the duration of all operations. The Applicant shall notify the Township immediately of any suspension or revocation of the required state and/or federal permits. Upon notification of said suspension or revocation, the Township-issued permits will hereby be deemed suspended or revoked until state and/or federal compliance is reached.
5. Access roads. Access to any well site shall be arranged to minimize danger to traffic and nuisance to surrounding properties and to maintain the integrity of Township roads. The following shall apply:
 - a. The apron of access roads to nonvertical unconventional well pads that intersect a Township Road shall be paved (approximately the first 50 feet) and the remaining surface shall be improved with limestone in a manner that would minimize storm water runoff, dirt, mud, and debris onto any public road. This shall be in place prior to the commencement of drilling operations. Any debris that does travel and accumulate onto a public road as a result of the access road, must be cleaned up within a reasonable amount of time, not to exceed 24 hours, as to decrease the potential of damage to the public road.

- b. Access roads to vertical conventional and unconventional well pads that intersect a Township road shall be constructed in a manner acceptable to the Township by improving the remaining surface with limestone which will minimize storm water runoff, dirt, mud, and debris onto any public road. Any debris that does travel and accumulate onto a public road as a result of the access road, must be cleaned up within a reasonable amount of time, not to exceed 24 hours, as to decrease the potential of damage to the public road.
- c. All roads and access ways shall be constructed and maintained to minimize the accumulation of dust and mud from impacting the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulphur water or water in mixture with any type of hydrocarbon be used for dust abatement.
6. Traffic. The Applicant shall take 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, Applicant will provide flag persons or other approved safety mechanisms to ensure the safety of children at or near schools, fixed school bus stops, and include adequate sign and/or warning measures for truck and vehicular traffic. Applicant will coordinate its efforts with affected school districts so as to minimize heavy truck traffic during the hours school buses are picking up or dropping off children.
7. Site Orientation. Before drilling, first responders shall have on-site orientation and be provided with adequate awareness information. Upon request from the Township, Applicant will, prior to drilling of an oil or gas well, make available 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 Applicant anticipates drilling activities in the Township.

8. Noise Standards for Oil and Gas Well Site Development.

a. Noise levels shall be equal to or less than 75 dB at the property line dividing the site developed and all adjoining properties during drilling and completions phases. Noise levels shall be equal to or less than 60 dB at the property line dividing the site developed and all adjoining properties during production. Temporary development activities relating to construction of the access road and well site and site reclamation activity shall be exempt from such noise level restriction. In the event that an Applicant is unable to meet the aforementioned requirements, the Applicant may either:

- i. Utilize appropriate noise mitigation measures that may include sound barriers or such technology or devices that will allow the Applicant to meet said noise requirements; or
- ii. Obtain a release waiver of said noise requirements from the owners/renters of those properties which would be affected by noise conditions in excess of that allowed.

b. If a person or persons shall have a complaint about the noise level of a certain Oil and Gas Well Site Development, they must provide the Township with dB test results along with the calibration certificate of the instrument used to test the dB levels.

9. Lights. No Applicant shall permit any lights located on any operation site to be directed in such a manner so that they shine directly on a public road, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads, and adjacent dwellings and buildings. Exterior lights shall be turned off except when personnel are working on site or motion sensors are activated.

10. Water Storage. Temporary water storage tanks or impoundments are permitted on the same lot provided the applicant shall adhere to the following:

a. Impoundment must be 200 feet from property lines dividing the site developed and any unleased, adjoining properties;

- b. A wildlife fence that is Pennsylvania Department of Conservation and Natural Resources and SGL specific or Chain-link fencing must be installed around any impoundment and shall be at least six (6) feet in height; and
 - c. The impoundment must be reclaimed in accordance with Department of Environmental Protection's rules and regulations.
11. Operating times. All site preparation and pre-production activities on the site, as well as access road maintenance, site reclamation activity and other ongoing ancillary activities shall be permitted only on Mondays through Saturdays (with the exception of federal and/or state holidays) for the greater of: (a) between the hours of 7:00 a.m. and 5:00 p.m., prevailing time, or (B) one-half our before sunrise until one-half hour after sunset; or (C) as otherwise authorized by the Board of Supervisors. The drilling phases and completions phases are exempt from the limitations of this paragraph.
12. Signage, site identification. All signage must comply with Pennsylvania Department of Environmental Protection's "Unconventional Well 911 Emergency Response Information" Regulations, 35 Pa. C.S. § 7321(a) (4) and 28 Pa. Code § 78.55(e), as may be amended.
13. If there are unique characteristics of a proposed site, the Township's Zoning Officer (if a permitted use) may request, or the Board of Supervisors (if a conditional use) may impose, additional reasonable requirements from an Applicant.

SECTION 5. ARTICLE V, §5.04 Limitations on Uses, is amended by adding the following (underscored language):

7. NATURAL GAS COMPRESSOR STATION and NATURAL GAS PROCESSING PLANT

1. Natural Gas Compressor Station or Natural Gas Processing Plant shall meet the location restrictions established by the Commonwealth, its regulatory agencies and found in those Environmental Acts.

2. No Natural Gas Compressor Station or Natural Gas Processing Plant shall be located closer than 1,000 feet from any dwelling, occupied structure, library, school, place of worship, park, playground, athletic field, or outdoor sports complex on adjoining properties and from the Butler Freeport Community Trail, unless a written waiver is submitted by the owner of such structures or properties.

3. Developers of Natural Gas Compressor Stations and Natural Gas Processing Plants are required to submit a Subdivision and Land Development Application to the Township for its approval as well as the Butler County Planning Commission's approval in accordance with the Subdivision and Land Development Ordinance.

4. Minimum Site Area for Natural Gas Compressor Stations.
 - a. Natural Gas Compressor Stations that are less than 500 HP (Horse Power) shall have no minimum lot requirement, but must adhere to all bulk and dimensional requirements, i.e., setbacks and building lines (lot-size not included).
 - b. Natural Gas Compressor Stations that are between 500-1000 HP must be located on a minimum of Five (5) acres, adhere to all bulk and dimensional requirements, i.e., setbacks and building lines (lot-size in the bulk and dimensional requirements does not supersede the required 5 acres listed above).
 - c. Natural Gas Compressor Stations that are greater than 1000 HP must be located on a minimum of Ten (10) acres, and adhere to all bulk and dimensional requirements i.e., setbacks and building lines (lot-size in the bulk and dimensional requirements does not supersede the required ten acres listed above).

5. Minimum Site Area for Natural Gas Processing Plants

Processing Plants shall only be permitted to be located on property that is a minimum of ten (10) acres or larger.

6. Application Requirements. The Application must include the following information:

a. The Applicant shall comply with all applicable state and federal regulations and shall show evidence of obtaining the required state and/or federal permits, including proof of insurability, before initiating any work and maintaining the required permits throughout the duration of all operations. The Applicant shall notify the Township immediately of any suspension or revocation of the required state and/or federal permits. Upon notification of said suspension or revocation, the Township-issued permits will hereby be deemed suspended or revoked until state and/or federal compliance is reached.

b. A copy of the Applicant's Erosion and Sediment Control Plan (ESCGP-2) and Post-Construction Stormwater Management Plan sealed by a licensed professional (e.g. engineer, surveyor, geologist or landscape architect) who is registered in Pennsylvania. Said professional must have attended training provided by Pennsylvania Department of Environmental Protection, Office of Oil and Gas Management on erosion and sediment control and post construction stormwater management for oil and gas activities.

c. A copy of Highway Occupancy Permits (HOP) and other permits already obtained at the time of the application submission. If no such permit has been obtained, the Applicant shall provide a copy of its application for the HOP and with an approved permit when obtained. A driveway permit shall be required if the entrance to the site is on a Township road.

7. First responders shall have on-site orientation and be provided with adequate awareness information. Upon request from the Township, Applicant will, prior to operations, make available 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 Applicant anticipates operations in the

Township.

8. Noise Standards for Natural Gas Compressor Stations and Natural Gas Processing Plants.

- a. Noise levels shall be equal to or less than 60 dB at the property line dividing the site developed and all adjoining properties. In the event that an Applicant is unable to meet the aforementioned requirements the Applicant may either:
 - i. Utilize appropriate noise mitigation measures that may include sound barriers or such technology or devices that will allow the Applicant to meet said noise requirements; or
 - ii. Obtain a release waiver of said noise requirements from the owners/renters of those properties who would be affected by noise conditions in excess of that allowed. Said waiver must be recorded at the Butler County Courthouse and a copy shall be provided to the Township.
- b. Owners of the Compressor Station or Processing Plants shall provide quarterly dB readings along with a copy of the calibration certificate to the Township to ensure compliance with the Ordinance. The Township may also request the logs of dB then readings at any time from the owners/operators of the site.
- c. If a person or persons shall have a complaint about the noise level of a certain Natural Gas Compressor Station and/or Natural Gas Processing Plant, they must provide the Township with the dB test results along with the calibration certificate of the instrument used to test the dB levels.

9. The Applicant shall take the necessary safeguards to ensure that the Township road(s) utilized shall remain free of dirt, mud, and debris resulting from development activities and/or shall ensure such roads are promptly swept or cleaned of dirt, mud and debris accumulation occur within 24 hours.

10. Applicant shall take 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 Applicant will provide flag persons or other alternative and approved safety mechanism to ensure the safety of children at or near schools or school bus stops and include adequate sign and/or warning measure for truck traffic and vehicular traffic. Applicant 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.

11. The access driveway off the public road to the Natural Gas Compressor Station or Natural Gas Processing Plant site shall be gated at the entrance to prevent illegal access.
12. If a Compressor Station is under 500HP, it shall either be enclosed within a structure, or contained within fencing at least eight (8) feet in height. All other Natural Gas Compressor Stations and Natural Gas Processing Plants shall be contained within an enclosed structure and surrounded by fencing at least eight (8) feet in height.
13. Site lighting shall be directed downward and inward toward the Natural Gas Compressor Station or Natural Gas Processing Plant so as to minimize glare on public roads and adjacent buildings and properties.
14. If there are unique characteristics of a proposed site, the Township's Zoning Officer (if a permitted use) may request, or the Board of Supervisors (if a conditional use) may impose, additional reasonable requirements from an Applicant.
15. Building Permit. The Applicant shall apply for and obtain a Township Building Permit prior to initiating the construction of either a Natural Gas Compressor Station or Natural Gas Processing Plant.

SECTION 6. Repealer.

Any ordinance, or section, paragraph or sentence in any other ordinance conflicting with the provisions of this Ordinance is hereby repealed to the extent of such conflict.

SECTION 7. Penalties.

Any Applicant/Operator who violates or permits a violation of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$500.00 for each day of violation plus all court costs, including reasonable attorney's fees incurred by the Township in the enforcement of this Ordinance. No judgment shall be imposed until the day of the determination of the violation by the Material District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce judgment pursuant to the applicable Rules of Civil Procedure. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Justice and thereafter each day that a violation continues shall constitute a separate violation. Further, the appropriate officers or agents of the Township are hereby authorized to issue a cease and desist notices and/or to seek equitable relief, including injunction relief, to enforce compliance herewith. No Bond will be required if injunctive relief is sought by the Township. A person who violates this Ordinance shall also be responsible for the Township's attorney's fees and court costs associated with enforcement.

SECTION 8. Interpretation and Severability.

This Ordinance is to be interpreted so that it meets all federal and state constitutional and statutory requirements. This Ordinance is to be interpreted and applied to impose zoning regulations identifying where gas and oil well and other related uses are permitted in the Township and not to regulate technical aspects of such operations, including technical aspects of oil and gas well functioning and matters ancillary thereto governed by Act 13 of 2012 or other laws of the Commonwealth, any regulations adopted pursuant thereto, and any applicable federal laws and/or regulations.

The provisions of this Ordinance are severable. If any provision or part thereof is held to be illegal, invalid, unconstitutional, or to be pre-empted by applicable law and/or regulations by any court of competent jurisdiction, then such provision or part thereof shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining

portion thereof.

SECTION 9. Effective Date.

This Ordinance shall take effect immediately upon adoption.

ORDAINED AND ENACTED this 30th day of July, 2015.

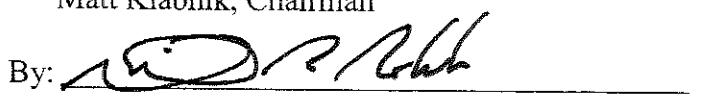
ATTEST:

TOWNSHIP OF WINFIELD

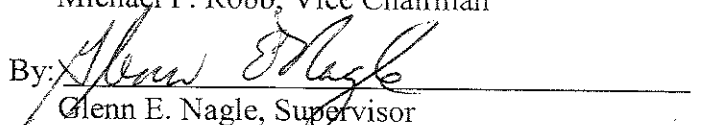


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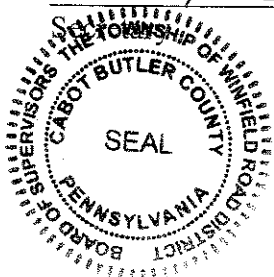
Matt Klabnik, Chairman

By: 

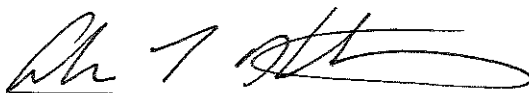
Michael P. Robb, Vice Chairman

By: 

Glenn E. Nagle, Supervisor



I, Adam Hartwig, Township Secretary of the Township of Winfield, do hereby certify that a notice of intent to adopt the foregoing Ordinance was advertised in the Butler Eagle, a newspaper of general circulation, on July 6, 2015 and July, 13 2015, 2015, that this is a true and correct copy of Ordinance No. # 2015-1 adopted at a regular meeting of the Board of Supervisors, held on the 30th day of July, 2015.



Township Secretary

7/30/15

Date