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**ORDINANCE NO. 520-10-03**

**AN ORDINANCE OF THE BOROUGH OF MANOR, WESTMORELAND COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 315, AS PREVIOUSLY AMENDED AND SUPPLEMENTED, ENTITLED "THE MANOR BOROUGH ZONING ORDINANCE"; IMPLEMENTING THE COMPREHENSIVE PLAN OF THE BOROUGH; CARRYING OUT AND AMENDING THE BOROUGH'S COMMUNITY DEVELOPMENT OBJECTIVES; REGULATING THE USE AND DEVELOPMENT OF LAND AND STRUCTURES WITHIN THE BOROUGH; ADOPTING ZONING REGULATIONS PERTAINING TO THE USE OF LAND FOR DIRECT RECOVERY/EXTRACTION OF SUBSURFACE OIL AND GAS (OIL AND GAS WELLS); SPECIFYING THE MINIMUM REGULATIONS APPLICABLE TO THE USE OF LAND FOR DIRECT RECOVERY/EXTRACTION OF SUBSURFACE OIL AND GAS; REQUIRING PROPER OFF-SITE DISPOSAL OF ALL WASTE MATERIALS GENERATED BY THE DIRECT RECOVERY/EXTRACTION OF SUBSURFACE OIL AND GAS; AND SPECIFYING THE ZONING DISTRICTS IN WHICH THE RECOVERY OF SUBSURFACE OIL AND GAS IS PERMITTED.**

**BE IT ORDAINED AND ENACTED**, and it is hereby Ordained and Enacted pursuant to the authority granted by the Pennsylvania Municipalities Planning Code and the Borough Code to the Borough Council of the Borough of Manor, Westmoreland County, Pennsylvania, as follows:

**SECTION I: Statement of purpose and intent:**

A. The purpose of this Ordinance is to provide for the health, safety, welfare and proper environment of the residents and their property in Borough of Manor; to provide the procedures for the issuance of zoning permits to enable oil and gas deposits to be extracted through direct, on-site wells; to permit wells to be drilled and placed in production in a safe manner with due regard for protection of existing structures, uses, property and persons residing and working within the Borough of Manor; and for the protection of natural resources and other environmental features.

B. The intent of the Borough Council in enacting this Ordinance is to regulate only those features of oil and gas wells that are not regulated pursuant to the Pennsylvania Oil and Gas Act, 58 P.S. § 601.101 *et seq.* (the Act). Pursuant to the provisions of the Act, the Commonwealth of Pennsylvania regulates the removal of subsurface oil and/or gas and sets certain conditions, requirements and limitations on certain features of oil and gas wells in

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Pennsylvania; and, although the Act preempts and supersedes certain local ordinances regulating oil and gas well operations, the Act does not preempt local zoning ordinance provisions enacted pursuant to the Pennsylvania Municipalities Planning Code that regulate the use of land for recovery of subsurface oil and/or gas as long as those provisions do not regulate a feature of oil and gas wells regulated by the Act.

**SECTION II:** Section 102 of The Manor Borough Zoning Ordinance is hereby amended and supplemented to add the following community development objectives:

\* \* \*

To provide for the health, safety, welfare and proper environment of the residents and their property in the Borough of Manor; to provide the procedures for the issuance of permits and approvals to enable oil and gas deposits to be extracted through direct, on-site wells; to permit wells to be drilled and placed in production in a safe manner with due regard for protection of existing structures, uses, property and persons residing and working within the Borough of Manor; and for the preservation and conservation of the natural environmental and natural resources and areas of particular value while providing for such uses and development as are compatible with these objectives.

**SECTION III:** Article VI of the Borough of Manor Zoning Ordinance is hereby amended to add the follow definition:

Recovery of Subsurface Gas and Oil Deposits (Oil or Gas Well). Those activities limited to the recovery and removal of subsurface gas and oil deposits through direct on-site drilling as defined and set forth in the Pennsylvania Oil and Gas Act (58 P.S. §601.101 et seq.) as amended and supplemented and the regulations promulgated pursuant thereto. This use does not include the recovery and removal of any other subsurface material or mineral deposits, such as coal, gravel, sand, clay, topsoil, stone, limestone, dolomite, quarry aggregate, slag, iron ore, zinc ore or any other mineral other than oil and gas.

**SECTION IV:**

A. Subject to the specific provisions of this Ordinance, the Recovery of Subsurface Gas and Oil Deposits shall be added to the following Zoning Districts of the Borough of Manor Zoning Ordinance, as a Conditional Use: The A-1 District, C-1 District and the L-1 District.

B. The Recovery of Subsurface Gas and Oil Deposits shall be prohibited in the R-1 Residential District, the R-2 Residential District, the CBD Central Business District and the OS Open Space District.

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C. The Recovery of Subsurface Gas and Oil Deposits is prohibited on any property subject to a conservation easement.

D. The Recovery of Subsurface Gas and Oil Deposits shall be subject, in addition to use regulations, to the applicable zoning district regulations of yard, frontage, setbacks, lot size and area, lot width, net building area, site capacity calculations, natural resource protection standards, easements, provisions for off-street parking and loading, floodplain standards, all overlay district regulations, and to such other provisions as are specified in other provisions of this Ordinance and the Manor Borough Zoning Ordinance.

E. The Recovery of Subsurface Gas and Oil Deposits shall be subject, in addition to the provisions of this ordinance, to all laws, rules and regulations of other applicable Borough, County, State or Federal requirements and licensing laws, rules and regulations and to the requirements of any agency having jurisdiction. These include but are not limited to laws, rules and regulations concerning soil erosion and sedimentation control, stormwater management, street and road regulations and fire protection requirements.

F. Where multiple uses exist or are proposed for a single parcel, each use must meet the required minimum net building area. Each well site shall be calculated based upon the "pad" area where the well and its attendant facilities are located, as well as any pond, impoundment, reservoir or access road areas.

G. The Recovery of Subsurface Gas and Oil Deposits shall be subject to the applicable standards of the Borough of Manor Stormwater Management Ordinance. Where the provisions for the management of storm water under this Ordinance are in conflict with the provisions of the Stormwater Management Ordinance, the provisions of the Borough of Manor Stormwater Management Ordinance shall be applicable.

H. The Recovery of Subsurface Gas and Oil Deposits shall also comply with all applicable provisions of the Borough of Manor Subdivision and Land Development Ordinance and the Manor Borough Building Code.

I. A conditional use approval for a well shall be valid for a period of one (1) year from the date of the approval. If drilling of a well has not been initiated within one (1) year after the conditional use approval, the conditional use approval shall expire. An extension may be granted by the Borough of Manor Borough Council for an additional period of time, not to exceed a maximum of one (1) year, upon written request by the applicant filled prior to the expiration of the original one (1) year period, subject to the finding that the plan is in compliance with all applicable provisions and requirements.

**SECTION V: General Provisions applicable to all Recovery of Subsurface Gas and Oil Deposit uses and applications.**

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1. Offensive or noxious odors, noises, fluids, gases, dust or glare shall be confined to the subject parcel or the leasehold premises and shall not impact any occupied structures or dwellings at any time during the siting, drilling, stimulating, completion, altering and production periods.
2. Junk, refuse, trash or abandoned material shall not be disposed of on-site. All refuse stored on site for final off-site disposal shall be located within a building, covered dumpster or other enclosure designed and constructed for the proper storage of such material.
3. Only one well site shall be permitted on any one parcel.
4. Any expansion of the ground surface area used and/or devoted to the well site or drilling or production operations shall require further conditional use approval.
5. Any hazardous or toxic material shall be properly and securely contained, stored and removed in accordance with applicable State or Federal regulations. On-site disposal of such material is prohibited.
6. All operations shall be in accordance with all applicable state and federal laws and rules and regulations, as amended; and pursuant to all rules, regulations and procedures promulgated thereunder.
7. All drilling and production operations, including wells, derricks, retaining pits, impoundments, vacuum pumps, storage tanks, vehicles, compressors, structures, machinery and ancillary equipment shall be located at least two hundred (200) feet from any structure used as a residential dwelling or from any structure used for public assembly, including schools and churches; or from any occupied non-residential structure, if the owner of such structures are not the owner or lessor of the property on which the well site is located.
8. All aspects of the recovery of subsurface gas and oil deposits, including without limitation, all drilling, production operations, buildings, pipelines, shall be located at least 100 feet from the right-of-way of any public or private street, and 50 feet from any property line. Pipelines from the well site shall be permitted to traverse the required setback only to the extent necessary to transport extracted product (oil or gas) off-site.
9. No recovery of subsurface gas and oil deposits shall be conducted within 1,000 feet of any properties known to be a landfill or known to be designated as site containing hazardous substances under state or federal cleanup laws.
10. The well owners(s) and well operator(s) shall be jointly liable and responsible for prevention and prompt removal of spills involving waste materials, oil and toxic or hazardous materials.

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11. Minimum lot size for an oil or gas well site, other than a Marcellus Shale formation well, shall be two (2) acres. The minimum lot size for a gas well site for a Marcellus Shale formation well shall be ten (10) acres.

12. All well site structures, equipment and operations within 200 feet of a residential structure or a place of public assembly shall be fully screened from off-site view from such residential structure or place of assembly. Methods of screening may include, but are not limited to any of the following methods, either individually or in combination:

(a) Existing or planted screening consisting of trees, shrubs and other vegetation as well as topography, if sufficient proof of the same is presented to Council as part of the Conditional Use process.

(b) Fencing if sufficient proof of the same is presented to Council as part of the Conditional Use process.

13. For areas of potential wildfire hazard, fire line intensities shall be abated to less than 100BTU/foot/second through fuel breaks or other equally effective means around structures or areas of operation. A fire protection plan shall be submitted to the Borough's Emergency Management Agency for review and approval.

14. A duly authorized representative of the Borough shall have the authority, at any time, both in relation to the enforcement of this ordinance and pursuant to the Borough's enforcement rights under 58 P.S. § 601.504(b) of Pennsylvania's Oil and Gas Act, to enter upon property where a drilling site is contemplated, upon property where a well is in the process of being drilled or upon a producing well site, for the purpose of inspecting the site, equipment and all other things necessary to assure compliance with this ordinance.

15. Unless other times and days are approved by Council as a condition of the grant of a conditional use, the hours of activity for the siting, drilling, stimulating, inspection, servicing, completion or alteration of the well and its site, shall be limited to Monday through Saturday, 7:00 a.m. to 7:00 p.m., except for emergencies.

16. Air and Water Quality; Noise. Operators shall conform to all following in connection with air and water quality and noise:

(a) Air contaminant emissions shall be in compliance with all county, state and federal regulations, including without limitation the control provisions of the Clean Air Act, as amended; and all fugitive dust regulations for smoke, ash, dust, fumes, gases, odors and vapors.

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(b) Noise. The operator shall take all possible precautions and measures to minimize the level and duration of noise created by the drilling operation, including without limitation maximum muffling of generators and construction of noise dissipaters or earthen berms. All equipment used in drilling, completion or production of a well must comply with the noise limits in this subsection.

(1) The noise (sound) pressure levels at any point beyond the property boundary containing the well shall be no more than 55 decibels (dB) during the day (7 a.m. to 7 p.m.); and no more than 45 decibels (dB) during the night (7 p.m. to 7 a.m.), and on Sundays and federal holidays. These noise standards shall also apply to any gas compressors and to all equipment used for well siting, drilling, stimulation, completion, alteration, production and other related operations.

(2) Based upon special site characteristics, additional noise measures may be required upon inspection and determination by the Borough.

(3) When taking noise measurements to determine whether additional noise mitigation measures are necessary, sound pressure levels shall be measured under conditions that are representative of the most demanding assumptions related to the specific site. Consideration shall be given to (including but not limited to) the nature and proximity of adjoining properties; time of day; prevailing weather patterns; amount of vegetative cover on or adjacent to the property; and topography of the site.

(4) If, based upon special site conditions and analysis, additional noise measurements are necessary, one or more of the following additional noise abatement measures, listed below in ascending order of mitigation, shall be required:

- (i) acoustically insulated housing, or covers enclosing any motor or engine;
- (ii) screening the site or noise emitting equipment by fence or landscaping;
- (iii) solid wall or fence of acoustically insulating material surrounding all or part of the facility.

17. The applicant shall maintain at the property and on file with the Borough Emergency Management Agency, a current list and the Material Safety Data Sheets (MSDS) for all chemicals used in the drilling operations (including but not limited to types of additives, polymers, salts, surfactants and solvents) and in any hydraulic fracturing operations,

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18. **Emergency Preparedness and Public Safety Plan.** As part of the conditional use application, the applicant shall provide an emergency preparedness and public safety plan. The plan shall demonstrate the following:

- (a) Name, address and phone number, including 24 hour emergency number of at least two (2) persons responsible for drilling operations;
- (b) As-built facilities plan;
- (c) First responders plan for potential emergencies, including but not limited to explosions, fires, geological activity, flooding or pipe rupture; and
- (d) Specific emergency preparedness plan for all potential hazardous scenarios.

19. The operator shall be responsible to keep all public and private rights-of-way which are used to enter or exit the well site substantially free from mud, dirt and other debris. If any substantial amount of mud, dirt or other debris is carried on to public or private rights-of-way from the well site, the operator shall clean the roads at regular intervals.

20. The applicant shall file with its application for a conditional use, all plans for: 1) the transportation and delivery of equipment, machinery, water, chemicals, products, material and items to be utilized in the siting, drilling, stimulating, completion, alteration and operation of the well; 2) the storage, transportation and removal of gas, hydrocarbons, fracturing fluids, waste products and other items from the well site; and 3) roads, streets, alleys, rights of way, easements or other property interests to be utilized for the transportation, delivery and/or removal of equipment, machinery, chemicals, products, gas, hydrocarbons, fracturing fluids, water, waste products and other items to and/or from the well site.

**SECTION VI. SEVERABILITY.** If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is the intent of the Borough Council that the remaining provisions of this Ordinance would have been enacted had such unconstitutional, illegal or invalid sentence, clause, section or part not been included herein.

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**SECTION VII. REPEALER.** All ordinances or parts of ordinances, which are inconsistent herewith, are hereby repealed.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

BOROUGH OF MANOR

By: Charles F. Kohl

ATTEST:

Thomas C. Costello  
Secretary-Treasurer

Approved this 21<sup>st</sup> day of July, 2010.

BY: Donald A. Stojan  
Mayor

ATTEST:

Thomas C. Costello  
Secretary-Treasurer



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**CERTIFICATION**

I, Thomas Costellic, duly qualified Secretary-Treasurer of the Borough Council of the Borough of Manor, Westmoreland County, Pennsylvania, do hereby certify that the foregoing Ordinance No. 520-10-03 is a true and correct copy of the original Ordinance No. 520-10-03 duly passed and adopted by a majority vote of the Borough Council of the Borough of Manor at a duly advertised and convened regular meeting held on the 21<sup>ST</sup> day of JULY, 2010, and that the minutes of said meeting showing how each member voted have been duly recorded in the official minutes of said Borough Council and remains in effect as of this date.

IN WITNESS WHEREOF, I affix my hand and attach the seal of the Borough of Manor, this 21<sup>ST</sup> day of JULY, 2010.

Certified to by:

Thomas C. Costellic  
Thomas Costellic  
Secretary-Treasurer

