

OFFICIAL
TOWNSHIP OF NORTH HUNTINGDON
PROPOSED ORDINANCE NO. ____ OF 2011
ORDINANCE NO _____

AN ORDINANCE OF THE TOWNSHIP OF NORTH HUNTINGDON PROVIDING FOR AN AMENDMENT TO ORDINANCE NO 765, THE ZONING ORDINANCE, TO PROVIDE REGULATION OF OIL AND GAS WELL DRILLING AND ANCILLARY OPERATIONS OF SHALLOW OIL AND GAS WELLS AND FROM WELLS TO SHALE RESERVOIR OR SOURCE ROCK (drilled deeper than the base of the Elk Sandstone or its stratigraphic equivalent).

WHEREAS, North Huntingdon Township has the power to protect the health, safety, and welfare of people and property in the Township;

WHEREAS, the North Huntingdon Township Board of Commissioners believe that it is in the best interest of the residents and citizens that the Township be provided certain information prior to commencement of oil and gas drilling operations; and

WHEREAS, the North Huntingdon Board of Commissioners wish to amend Zoning Ordinance No. 765 that provides for oil and gas development.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED and it is hereby ordained and enacted by the Board of Commissioners of North Huntingdon Township, Pennsylvania as follows:

SECTION 1: Purpose

It is hereby declared to be the purpose of this chapter to declare the development of oil and gas as a Permitted Use in certain zoning districts for shallow wells, and as a Conditional Use for deep wells in certain zoning districts. North Huntingdon 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 Statute Title 53, Municipality Planning Code ("MPC") and through the North Huntingdon Township Zoning Ordinance. It is in the Township's best interest to determine the zoning districts where such activities will be permitted 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 are in place related to oil and gas well drilling.

SECTION 2: Definitions

As used in this ordinance, the following terms shall be interpreted or defined as follows:

Oil and Gas Development or Development. The well site preparation, well site construction and excavation, 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; and 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.

Township: North Huntingdon Township, Westmoreland County, Pennsylvania.

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.

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

Protected Structure. Any residential dwelling unit, commercial business, school, religious institution or other public building located within 500 feet of the surface location of a well (1000 feet for deeper shale reservoir or source rock extraction) that may be impacted by noise generated from drilling or hydraulic fracturing activity at a well site. The term shall not include any structure owned by an oil and gas lessor who has signed a lease with the Operator granting surface rights to drill the subject well or whose owner has signed a waiver relieving the Operator from implementation of the measures established in paragraph Section 4, Paragraph 17 of this Ordinance for the owner's benefit.

Well Site. The well site shall consist of the area occupied by the facilities, structures, and equipment necessary for or incidental to the construction, drilling, fracturing, production, or operation of an oil or gas well. If multiple areas are used, then the total combined areas shall be considered the well site area.

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.

SECTION 3: Permitted Districts

The Township of North Huntingdon hereby designates the following zoning districts within the Township in which oil and gas development may be permitted by right or as a Conditional Use. In either case, it must meet all conditions and standards contained in Section 4 of this Ordinance.

1. Oil and Gas Development Shallow wells: oil and gas development for shallow wells are permitted uses in the following zones: PEDD 1 and 2, C-1, all Industrial zones, open space, and residential zones excluding the R-1 and R-1A zones. Areas within a permitted zone that border and are located within 200 feet of an R1 and R1A zone are excluded from oil and gas development. All access roads and site development must be at least 200 feet from a protected structure, unless a waiver is granted by the property owner.
2. Oil and gas development for deep wells from shale reservoir or rock within the Township is permitted by Conditional Use in zones PEDD 1 and 2, C-1, all industrial zones, open space, and residential zones excluding R-1 and R-1A provided they are not bordering and within 500 feet of an excluded zone. All access roads must be 200 feet from a protected structure and site

development must be 500 feet from a protected structure, unless a waiver is granted from the property owner.

3. Oil and gas development shall not be permitted in areas not identified in 1 and 2 above. No development is permitted in the R-1 and R-1A zones.

SECTION 4: Conditions and Standards

Oil and gas development may be a Permitted Use or Conditional Use, subject to the following standards and conditions:

1. Operator shall submit an application for well drilling to the Township. Applicant will also be required to submit a Site Development Plan to the Township Engineer for approval for the site in accordance with Township regulations for site development. The Applicant will be required to pay fees for application and review in accordance with the existing fee structure for plan reviews. Operator shall comply with all applicable codes of the: Subdivision and Land Development Ordinance; the Grading, Excavation, and Fill Ordinance; the Stormwater Ordinance; Floodplain Ordinance; and other relevant ordinances. No site work shall occur prior to the approval by the Township Engineer. Any modification to an existing and permitted site that materially alters the site development plan or midstream facility will require a revised submittal and approval from the Township.
2. Operator will be responsible for costs and fees in accordance with the Township fee structure. In addition, any direct costs associated with the review of an application or related studies will be paid by the applicant. This includes any direct costs associated with hiring a third party to assist in the review of the application and related documents. Unpaid costs will be a basis for the Township to deny future applications for that Operator.
3. 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. For state and county roads located within the Township, Operator shall provide a copy of the Highway Occupancy Permit for overweight vehicles to the Township. Operator shall provide a transportation route map which depicts the roads to be utilized in the Township. The Operator shall inventory the condition of the roads and provide video and photo documentation to the Township. The Operator shall also submit at the time of application a road restoration plan that indicates how the Operator plans to address damage to Township roads during construction and after construction is complete. Prior to the commencement of any activity at the site, the Operator shall enter into a township roadway maintenance and repair agreement with the Township, in a form acceptable to the Township regarding maintenance repair and bonding of Township roads before, during, and immediately after drilling operations. Corrective action shall be taken by the Operator as directed by the Township.
4. Operator shall take the necessary safeguards to ensure that the Township roads utilized remain free of dirt, mud and debris resulting from development activities and shall ensure such roads are promptly (within 24 hours) swept or cleaned of dirt, mud and debris. Ingress and egress points shall be located to comply with PA Code 67 Chapter 441 PaDOT Design Manual 2, and shall meet transition grades, turning radii, and accommodate traffic capacity to provide for efficient movement.
5. 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, Operator shall 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.

6. Operator shall not clear brush or trees by way of burning. However, Operator shall be permitted to, consistent with any relevant outdoor burning ordinance(s), laws and regulations, 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. Prior to development, Operator shall provide to the Township three (3) copies of an approved Preparedness, Prevention and Contingency ("PPC") Plan. The Plan shall comply with PaDEP Guidelines for the Development and Implementation of Environmental Emergency Response Plans or the most recent applicable guidance document. Additionally, the Operator shall identify a third party or company emergency responder.
8. Before any development activities, the Township shall ascertain whether the Township's Police and Fire Departments have secured adequate information to deal with any potential dangerous conditions that may result due to development activities. First responders shall, upon request from the Township and at the Operator's sole cost and expense, have an on-site orientation providing adequate awareness information prior to drilling of an Oil and Gas well. The Operator will provide at least fifteen (15) days' notice of on-site orientation. Such site orientation shall be made available immediately after any substantial modification to the development or well site, or not less than annually during the period when the Operator anticipates drilling activities in the Township.
9. Operator shall take the necessary safeguards to ensure appropriate dust control measures are in place.
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, Operator shall consider the 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. The Township Engineer will review the site plan with consideration of private property usage and future development.
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 drillsite, wellhead, or other area being developed by shielding so as to minimize light leaving the site and towards public roads and adjacent buildings.
12. At least two (2) weeks prior to any development activity at an oil or gas well location, the Operator shall provide the following information to each property owner within one thousand (2,500) 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 to be used in the development of the well(s);
 - c. The contact information for the Operator, including a 24-hour emergency number.

- d. The availability of the Operator to meet with residents and businesses to present Operator's plans for the well(s) and to allow for questions and answers.
13. The Operator shall provide to the Township Engineer a Site Development Plan in accordance with Township requirements of the Subdivision and Land Development Ordinance, in addition to:
- a. A map showing the planned access route to the Well Sites on public roads,
 - b. Information on the status of State and County road bonding.
 - c. Identification of all structures within 750 feet of limits of the disturbed area,
 - d. The well survey plat showing the planned surface location(s) of the well(s), and site facilities for oil and gas development, including an off site transmissions plan.
 - e. Operator shall comply with the Township floodplain requirements and stormwater management requirements outlined in Ordinance 2011. No drilling or facilities are permitted within the floodplain, except where no other area provides access to the oil and gas deposit and this is thoroughly documented. In such cases, no storage of chemicals shall be permitted and only needed structures which shall be designed to withstand a 100-year storm event will be permitted in the floodplain. A qualified Engineer must certify that any development and structures do not cause additional flooding impacts. Exemption from the chemical storage restriction may be granted at the discretion of the Township where it is necessary and where no environmental risk would occur.
 - f. A general description including: identification of water withdraw method and treatment and disposal of water; location and means for site storage and disposal of hazardous and nonhazardous waste products; and summary environmental data that includes anticipated impacts and any proposed mitigation measures.
 - g. The contact information for the Operator with 24-hour emergency number.
 - h. Provide list of addresses, delivery date and method of delivery for each resident within 2,500 feet of the well as required in Section 12. A map showing structures where residents were notified and a copy of the notice and delivery method will be accepted.

Submittals for shallow wells should include four (4) paper copies and one (1) digital copy of the land development application and drawings for site plans. Deep wells from shale reservoir or source rock require ten (10) paper copies of the application and drawings are required along with one digital copy. Applicable fees for oil and gas operations are for major developments. The Township will have up to 90 days for review.

14. At least ten (10) days prior to commencement of drilling the Operator shall provide to the Township Zoning Officer a copy of the drilling permit issued by the Pennsylvania Department of Environmental Protection ("DEP"). Revocation of any federal, state, municipal, or other required approvals applicable to the use shall constitute an automatic revocation of the site development approval.
15. In addition to the requirements in the subsections above, the Operator shall:
- a. Fence all water impoundments with a minimum thickness eleven (11) gauge chain link fence, at least six (6) feet in height, meeting OSHA requirements around any pits that contain or could contain water or other liquids at depths greater than two feet. Fence support posts shall be set in concrete and embedded into the ground for stability. Tension

rods shall be 3/8 inch round steel bolt. Tension bars shall have a minimum thickness 1/4 x 3/4 inch. Adjustable tighteners should have a 6 inch minimum take-up.

- b. Install a gate at the access road. Gates shall be not less than 12 feet wide of two gates (minimum 6 feet) or 12 foot sliding gate. A combination catch and locking attachment shall be provided and kept locked when no one is working on the site.
 - c. Install warning signs providing notice of the potential dangers at the perimeter of the well site. These should be at least every three hundred feet and more frequent in areas where sight distance is limited.
 - d. Install a permanent Operator Sign posted at the gate and access road to include company name, emergency contact information, street address (to be established by Township), and Township Police number for emergency purposes. The sign must be all weather material and with a minimum four (4) inch lettering and should be located near and visible from the public road.
 - e. Provide at least one security guard at all times when a drilling rig or hydraulic fracturing equipment is on the well site and in use.
16. Prior to the commencement of drilling activity, 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 9:00 p.m. to 7:00 a.m.
17. The 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 the drilling of an oil and gas well and/or the installation of any midstream facility, compressor or gathering facility, the Operator shall identify a third party entity for acoustic analysis. The Operator shall establish a background dBA Leq (Laeq) noise level at fifty (50) feet from the nearest protected structure as measured to the closest exterior point of the building. In lieu of establishing the above Laeq noise level, the Operator may assume and use, for the purposes of compliance with this ordinance, a default background noise level of 55 Laeq daytime and 45 Laeq nighttime. The sound level meter used in conducting any evaluation shall meet the American National Standard Institute's standard for Type II sound meters or greater accuracy which will provide equivalent data. The Township, at its discretion, may require noise monitoring during initial drilling and prior to receiving any complaints. The Township, at its discretion, may also require a Noise Analysis at the Operators expense.
 - b. The Operator shall provide documentation of measured background noise levels (Laeq) to establish a background noise level greater than 55 Laeq (daytime 7:00AM-9:00PM) 45 Laeq (nighttime 9:00PM-7:00AM) to the Township's Zoning Officer within three (3) business days of such a request from the Zoning Officer. Operator shall provide a copy of recent (within one year) calibration laboratory certification. Also meters must be field calibrated and documented before and after each set of measurements. Eight measurements should be taken over a two to three hour period and arithmetically averaged to identify the Laeq. All data should be reported. Daytime readings should be taken in both the AM (10AM-12PM) and PM (4PM-6PM) and be the basis for daytime operations. Operations that may involve nighttime work require both daytime and nighttime measurements. Readings should be 5 feet above ground and at an exterior site

to the protected structure to obtain adequate data that is not compromised by proximity to a structure or features that would skew the data or results. The location of all noise measurements will be shown relative to nearby features via a sketch including dimensions to nearby features. Any unusual noise events or site features should be noted.

- c. The noise generated during construction, drilling and hydraulic fracturing activities, or from compressors or midstream facilities is to be measured fifty (50) feet from the nearest protected structure. The monitoring site should be between the noise source and protected structure. The noise levels shall not exceed the background noise level (as determined by noise monitoring) or the default level, whichever is higher:
 - i. during drilling activities by more than seven (7) decibels during the hours of 7:00 a.m. to 9:00 p.m.;
 - ii. during drilling activities by more than five (5) decibels during the hours of 9:00 p.m. to 7:00 a.m.; or
 - iii. By more than ten (10) decibels during hydraulic fracturing operations.

The Operator shall inform the Township of which level (background existing monitored noise level or default level) is being used. Measurements to determine compliance with the ordinance will be dBA Leq (Laeq) for a period of 15 minutes during any part of the day or night at the discretion of the Township.

- d. Noise Analysis – At the discretion of the Township, a Noise Analysis will be required prior to any site development activity. In areas where there are likely to be noise concerns the Township may require a noise analysis to develop an understanding of noise impacts and allow time for noise attenuation measures to be adequately evaluated. The analysis must determine expected uncontrolled noise levels at locations designated by the Township. If it is determined that uncontrolled noise levels will exceed levels in 4.17c, the analysis must include expected noise levels with noise controls in place. The analysis must include specifics on the noise controls that will be installed. The analysis must be developed from known noise levels from similar sites and predictions (graphical or numerical) of expected noise levels determined at locations designated by the Township. These requests are for those areas likely to have noise impacts. Noise mitigation measures will be required if determined by the Township to be feasible. The Noise Analysis shall be approved by the Township.
- 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 construction drilling: or hydraulic fracturing activities; or for compressors or midstream facilities, the Operator shall, within twenty-four (24) hours of receipt of the complaint from the Township, monitor noise at a point which is nearest to the well site or equipment generating the noise, and (50) feet from the Protected Structure to avoid reflective noise from the structure. Complaints from residents or otherwise not using a protected structure, but in proximity to the noise source shall require a noise analysis if determined by the Township to be warranted.
- f. If the Operator engages in any noise monitoring or analysis as required by this Ordinance, it will provide preliminary data to the Township no later than three (3) business days following completion of the noise monitoring or analysis. Once the monitoring is complete, Operator shall 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. Township will determine whether noise abatement measures are feasible. Operator will be required to take corrective action if mitigation is feasible. If no mitigation is feasible then the noise analysis is complete and no mitigation is required. The mitigation analysis should identify various mitigation measures and provide a detailed explanation to the feasibility of the noise abatement measure(s). The feasibility should address whether an abatement measure can actually be implemented and provide an appropriate noise reduction and pose no safety, engineering, or access restrictions problems. It should also address the cost and level of attenuation to be provided so that the mitigation can be properly evaluated. Measures to be evaluated should consider best available control technology and include but are not limited to: temporary barrier construction; acoustic blankets; enclosing all or portions of the noise source; limiting noise source operations to daytime or other limits; relocating drill site; providing motel accommodations for impacted residents; and other measures that individually or in conjunction with each other provide a feasible noise mitigation plan.

- 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 (i) an exhaust muffler or (ii) an exhaust box. The exhaust muffler or exhaust box shall be constructed of non combustible materials designed and installed to suppress noise and disruptive vibrations. Moreover, all such equipment with an exhaust muffler or exhaust box shall be maintained in good operating condition according to the manufacturer's specifications.
- h. All work over operations shall be restricted to the hours of 7:00 a.m. to 9:00 p.m., except in the extent of an emergency, 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. The Township is to be notified of all such emergencies.

18. Operator shall take all reasonable measures to prevent the emission of offensive odors from the development.

19. Shallow oil and gas development sites shall provide a two hundred (200) foot setback area from district boundaries or areas that are excluded zones for oil and gas development. No structures shall be permitted within this setback area. Deep wells from shale reservoir or rock shall have a 500 foot setback from boundaries of excluded zones.

20. 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.

SECTION 5: Penalties

Any Operator or person performing work at their direction that violates or permits a violation of this chapter shall, upon being found liable, pay a fine of not more than \$500 per incident, plus all costs, including reasonable attorney's fees incurred by the Township in the enforcement of this chapter. Each day a violation exists shall constitute a separate offense. Appeals can be made by written request to the Township and an appeal will be heard by the Zoning Hearing Board. The Township may choose a civil enforcement proceeding commenced before a Magisterial District Judge. A person who violates this Ordinance shall also be responsible for the Township's attorney's fees, engineering fees, expert fees and court costs associated with enforcement.

The Township may seek injunctive relief in accordance with Section 53 Pa CSA 10515.1 of the Municipalities Planning Code which states, "In addition to other remedies, the municipality may institute and maintain appropriate actions by law or in equity to restrain, correct, or abate violations...."

SECTION 6: Natural Gas Compressor Stations, Natural Gas Processing Plants, metering Station, Gathering System and other production of development facilities. These facilities require a Noise Impact Analysis and shall comply with the noise criteria in Section 17.

1. Natural Gas Compressor Stations shall be allowed as Conditional Uses in the Industrial District
 2. Natural Gas Processing Plants shall be listed as Conditional Uses in Industrial District
 3. Metering Stations shall be allowed as Conditional Uses in the Industrial District
- Supplemental Controls:

Compressors are required to be enclosed in a building with doors and meet noise and odor requirements. The building and roofing color is required to blend into the site. The Township requires restoration of the site within one year of production termination or nonuse.

SECTION 7: Repealers

Township Ordinance No. 18 of 1998, Ordinance No. 952

SECTION 8: Effective Date

This ordinance shall take effect immediately after passage.

ORDAINED AND ENACTED into law this _____ day of _____, 2011.

TOWNSHIP OF NORTH HUNTINGDON

BY: _____

Lee D. Moffatt, President
Board of Commissioners

ATTEST:

John M. Shepherd, Township Secretary

SEAL

SOLICITOR: Bruce E. Dice