

TOWNSHIP OF DAUGHERTY
BEAVER COUNTY, PENNSYLVANIA

ORDINANCE NO. 138

AN ORDINANCE AMENDING ORDINANCE NO. 134, CHAPTER 175 ZONING, ESTABLISHING STANDARDS FOR OIL AND GAS OPERATIONS RELATING TO LAND USE PROVISIONS, ADDING DEFINITIONS AND TERMS, SPECIFYING SUBMITTAL MATERIAL AND PROCEDURES FOR CONDITIONAL USE APPROVAL, OUTLINING REVIEW AND APPROVAL CRITERIA, ESTABLISHING HEALTH, SAFETY AND WELFARE STANDARDS, LIMITING IMPACTS TO ADJACENT PROPERTIES AND SPECIFYING ENFORCEMENT REMEDIES.

The Board of Supervisors of the Township of Daugherty hereby ordains and enacts as follows:

WHEREAS, the extraction of minerals, specifically oil and natural gas, is a land use which exhibits certain characteristics, which if not monitored could potentially have a negative impact on residents and properties in close proximity; and

WHEREAS, the Commonwealth of Pennsylvania through amendments to the Pennsylvania Oil and Gas Act and Floodplain Management Act, known as Act 13 of February 2012, has attempted to regulate activities related to oil and gas extraction; and

WHEREAS, the Pennsylvania Commonwealth Court has ruled portions of Commonwealth Act 13 of February 2012 which provided for the preemption of certain local zoning ordinance standards, unconstitutional; and

WHEREAS, property owners in Daugherty Township have been approached by extractive industry representatives to enter into agreements for the development of oil and gas resources; and

WHEREAS, the Board of Supervisors through authority granted by the Pennsylvania Municipalities Planning Code have referred the local zoning issues to the Planning Commission for preparation of regulations which will permit the reasonable development of such natural resources while protecting the health, safety and welfare of Township residents;

NOW, THEREFORE, be it ordained and enacted by the Township Board of Supervisors, and it is hereby ordained and enacted by the authority of the same, as follows:

SECTION 1. In Article II, Section 175-14, Definitions, the following definitions are hereby inserted in alphabetic order:

BUILDING — An occupied structure with walls and a roof within which individuals live or customarily work.

COMPRESSOR STATION — One or more enclosed insulated building, housing compressor units, that are to be designed compatible with other structures in the area and designed and constructed to compress natural gas and/or oil that originates from a gas and/or oil well, or collection of such wells, operating as a midstream facility for delivery of gas and/or to a transmission pipeline, distribution pipeline, processing

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

IMPOUNDMENT AREAS — An earthen depression, excavation, pit or facility situated in or upon the ground, used to store water or other fluids related to Oil and Gas Operations.

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 OPERATIONS — The term includes the following: well location assessment, including seismic operations, well site preparation, construction, drilling, hydraulic fracturing and site restoration associates with an oil or gas well of any depth; water and other fluid storage or impoundment areas used exclusively for oil and gas operations; construction, installation, use, maintenance and repair of oil and gas pipelines, natural gas compressor stations and natural gas processing plants or facilities performing equivalent functions; and construction, installation, use, maintenance and repair of all equipment directly associated with activities specified herein to the extent that: the equipment is necessarily located at or immediately adjacent to a well site, impoundment area, oil and gas pipeline, natural gas compressor station or natural gas processing plant and the activities are authorized and permitted under the authority of a Federal or Commonwealth agency.

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 & gas.

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

SECTION 2. In Article III, Section 175-19 Charts, Section 175-19.C, the chart shall be amended to include the following uses and footnote as nonresidential uses:

Principal Uses	Zoning Districts						
	R-1	R-2	R-3	C-1	C-2	C-3	S-U
Oil and Gas Operations	R	R	R	R	R	R	R
Impoundment Area	R	R	R	R	R	R	R
Compressor Station	C	C	C	C	C	R*	C
Natural Gas Processing Plant	C	N	N	N	C	R*	C
* Use must comply with standards in §175-30 or such use shall be a conditional use in the zoning district.							

SECTION 3. In Article IV, Section 175-33 Express Standards, shall be amended to add the following sections:

- 1) Compressor Station.
 - a) Minimum lot area shall be twenty (20) acres.
 - b) A minimum three (3) linear mile separation distance between compressor stations located in the Township measured from the building pad shall be applicable to this category of use. Multiple compressor station buildings may be located on the same compressor station site.
 - c) Access roads to the facility shall be designed at a maximum ten percent (10%) grade and maintained in a stable, mud-free condition.
 - d) The operator shall comply with all applicable provisions of §175-30 of this Ordinance.

SECTION 4. In Article III. Establishment of Districts, Map, and General Regulations shall be amended to add the following section:

§175-29.1 Oil and Gas Operations.

- 1) All minimum lot areas, minimum lot widths, minimum front setbacks, minimum side setbacks, minimum rear setbacks, maximum building heights, and maximum lot coverage for Oil and Gas Operations shall be as stipulated below or as otherwise provided for in this section or Commonwealth law.
 - a) Wells may not be drilled within 200 feet, or, in the case of an unconventional gas well, 500 feet, measured horizontally from the vertical well bore to a building or water well, without written consent of the owner of the building or water well.
 - b) Unconventional gas wells may not be drilled within 1,000 feet measured horizontally from the vertical well bore to any existing water well, surface water intake, reservoir or other water supply extraction point used by a water purveyor without the written consent of the water purveyor.
 - c) No well site may be prepared or well drilled within 100 feet or, in the case of an unconventional well, 300 feet from the vertical well bore or 100 feet from the edge of the well site, whichever is greater, measured horizontally from any solid blue lined stream, spring or body of water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey.
 - d) The edge of the disturbed area associated with any unconventional well site must maintain a 100-foot setback from the edge of any solid blue lined stream, spring or body of water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey.
 - e) No unconventional well may be drilled within 300 feet of any wetlands greater than one acre in size, and the edge of the disturbed area of any well site must maintain a 100-foot setback from the boundary of the wetlands.
 - f) No well site may be prepared or well drilled within any floodplain if the well site will have a pit or impoundment containing drilling cuttings, flow back water, produced water or hazardous materials, chemicals or wastes within the floodplain; or a tank containing hazardous materials, chemicals, condensate, wastes, flow back or produced water within the floodway. A well site shall not be eligible for a floodplain restriction waiver if the well site will have a tank containing condensate, flow back or produced water within the flood fringe unless all the tanks have adequate flood proofing in accordance with the National Flood Insurance Program standards and accepted engineering practices.
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- g) Impoundment areas used for oil and gas operations shall be situated so that the edge of any impoundment area shall not be located closer than 300 feet from an existing building.
 - h) Compressor stations used for oil and gas operations shall be situated so that the compressor building is located 750 feet or more from the nearest existing building or 200 feet from the nearest lot line, whichever is greater, unless waived by the owner of the building or adjoining lot; and the noise level does not exceed a noise standard of 60dbA at the nearest property line or the applicable standard imposed by Federal law, whichever is less.
 - i) Natural gas processing plants shall be situated so that the natural gas processing plant building is located at the greater of at least 750 feet from the nearest existing building or at least 200 feet from the nearest lot line unless waived by the owner of the building or adjoining lot; and the noise level of the natural gas processing plant building does not exceed a noise standard of 60dbA at the nearest property line or the applicable standard imposed by Federal law, whichever is less.
 - 2) All applications for oil and gas operations, whether listed as uses by right or conditional uses, shall include the submittal information listed below. Applications for natural gas compressor stations and natural gas processing plants also shall include the submittal information required for land developments specified in the Daugherty Township Subdivision and Land Development Ordinance:
 - a) The applicant shall provide the Zoning Officer a routing plan for access to the site, identifying Commonwealth and Township roadways being utilized, including copies of any required road performance bonds, Commonwealth permits or other required local or Commonwealth permits.
 - b) Applicant shall provide the Zoning Officer with a copy of the Erosion and Sediment Control General Permit (ESCGP) approved by the Pennsylvania Department of Environmental Protection or if the permit has not been issued, the application for the ESCGP.
 - c) A copy of an Act 9 compliant emergency response plan.
 - d) Any approved landscaping plan shall be visually consistent with the provisions of §175-26.
 - e) At the time an application for a Township zoning permit is submitted, information regarding the rehabilitation-reclamation of the site shall be attached. This requirement may be satisfied by providing a copy of an application for ESCGP submitted to the Pennsylvania Department of Environmental Resources.
 - f) Notification requirements of the Pennsylvania Department of Environmental Protection shall be satisfied prior to commencement of those activities specified in this Section.
 - 3) Any operator utilizing Daugherty Township owned and maintained weight restricted roads for Oil and Gas Operation activities shall be held to the minimum Township standards for purposes of bonding. It shall be the sole responsibility of the operator to keep the roadway segments being utilized passable and reasonably mud-free for all vehicular traffic, in addition to the following:
 - a) Where a Daugherty Township owned and maintained road is to be used for an Oil and Gas Operation, a maintenance plan shall be provided to the Township showing all roadway segments being used and the reason Township roads need to be accessed. Such plan shall include a schedule to keep the roadway passable and reasonably mud-free.
 - b) When the operator's maintenance plan for accessing Township owned and maintained roads for and Oil and Gas Operation is considered deficient by the Township Engineer due to excessive use, an agreement shall be executed to rebuild the roadway surface, sub base and drainage prior to use. Such roadway rehabilitation work shall be performed at a time deemed appropriate by the Board of Supervisors with input from the Township Engineer.
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- 4) Where such operations are classified as conditional uses in certain zoning districts, the following review procedure and submittal information shall be provided and development standards met:
- a) An application for Conditional Use approval for an Oil and Gas Operation shall be filed with the Zoning Officer along with the required administrative fee and such application shall include information as outlined in Article IV and as follows:
 - i) Identify and describe the property, its location and the present use.
 - ii) Reasonably describe present improvements and any intended additions and changes.
 - iii) Disclose the Conditional Use, for which the application is being made, and show how the property, as it may be improved, meets the standards and criteria required for approval.
 - iv) Upon receipt of such application for Conditional Use, the Zoning Officer shall forthwith refer the same to the Township Planning Commission. The application for conditional use shall be processed as per the provisions of the Pennsylvania Municipalities Planning Code, Section 913.2.
 - v) The Township Board of Supervisors shall hold a public hearing pursuant to public notice, on the Conditional Use application, as per the provisions of the Pennsylvania Municipalities Planning Code, Section 908.
 - vi) The Township Board of Supervisors may authorize Conditional Uses pursuant to express standards and criteria specified in this Ordinance for said uses and may attach such additional conditions and safeguards as it may deem necessary where such conditions and safeguards are not pre-empted by Commonwealth Act 13 of February 2012.
 - vii) The Township Staff shall report the action of the Township Board of Supervisors as per the provisions of the Pennsylvania Municipalities Planning Code, Section 913.2.
 - b) For any Oil and Gas Operation, the Operator shall:
 - i) Install temporary safety fencing, at least eight (8) feet in height or as specified in Section §175-21, Storage and Screening, around impoundment areas. Where applicable Federal or Commonwealth regulations require additional or alternative fencing, those standards shall dictate.
 - ii) Provide for dust control on all access roads including, but not limited to providing for wet suppression or chemical stabilization of exposed soils and the reduction of speed limits to 15 MPH or less.
 - iii) Install warning signs providing notice of the potential dangers at the well site.
 - iv) Provide security personnel 24/7 at all times when a drilling rig or hydraulic fracturing equipment is on the well site.
 - v) Prior to development, the Operator shall provide to the Township's first responders, including the Volunteer Fire Department, Police Department and Ambulance service in addition to the Zoning Officer, a copy of its Preparedness, Prevention and Contingency (PPC) Plan.
 - vi) Prior to drilling, the Township shall ascertain whether the Township's first responders have secured adequate training to deal with any potential dangerous conditions that may result due to development activities. First responders shall have a minimum of five hours of training per year to meet this standard. Upon request from the Township, the Operator will, prior to drilling of its first oil and gas well in the Township, make available, with at least 30 days' notice, at its sole cost and expense, one appropriate group training program of up to five hours for first responders. Such training shall be made available at least annually during the period when the Operator anticipates drilling activities in the Township.
 - vii) All reportable spills and accidents are to be reported to the Township Administrative Office in a timely manner.
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- viii) An emergency response plan shall be submitted addressing methods to handle the following:
- (1) Well leakage
 - (2) Spill containment
 - (3) Vandalism creating unknown conditions
 - (4) Defective casing or cementing
 - (5) Potential contamination between the well and the public and/or private water supply
- c) All work-over operations shall be restricted to the hours of 6:00 am to 9:00 pm. This includes all pre drilling construction. "Work-over operations" shall mean work performed at a well site after its completion in an effort to secure production where there has been none, restore production that has ceased, or increase production.
- d) A noise level not to exceed 60 dB TWA at a building shall be maintained at the well drilling and impoundment area sites as delineated in the operator's well permit application submitted to the Department of Environmental Protection.
- e) The primary access road to the oil and gas well site shall be improved with a dust-free, all weather surface and constructed in such a manner that no stormwater, sediment or debris shall be carried onto any public roadway.
- f) Adequate and appropriate lighting is essential to the safety and welfare of those persons involved in the development of oil and gas, and the Operator shall take steps, to the extent practicable, to direct site lighting downward and inward toward the drill site, well head, or other area being developed so as to minimize glare on public roads and adjacent buildings within three hundred (300) feet measured from the property line or leased area line of the drill site, well head, or other area being developed.
- g) The following activities shall be permitted in every zoning district without having to obtain a zoning permit or conditional use approval:
- i) Oil and Gas Operations taking place below the surface of the earth, including but not limited to gas and water pipelines and vertical and horizontal wellbores; and
 - ii) Well and pipe location assessment operations, including seismic operations. Notice of seismic operations shall be provided to the Township before they commence.
- h) In the event the access road to a well pad is located all or partially in a zoning district different than the well pad, the access road shall be authorized consistent with the requirements of this Ordinance applicable to the well pad.

5) Traffic Impact Guidelines

- a) In order to ensure the safety of all persons using or travelling on the public road ways and to control the flow of traffic to and from the well site the applicant will implement the following:
- i) Traffic intensive vendors (i.e. water, sand and rock) will dispatch traffic utilizing their internal team. If traveling in a truck convoy, the convoy will be limited to five vehicles. This will ensure that a smooth flow of traffic is maintained to minimize the impact on local traffic and minimize wait time on location.
 - ii) All oversized and permitted loads will have pilot vehicles.
 - iii) A flagger will be placed at the site entrance during entrance construction, access road construction and rig mobilization and demobilization.
 - iv) No stacking of vehicles will occur on Township or state roadways.
 - v) All oil and gas related traffic will be made aware of school bus hours, which are 6:15 am to 9:20 am and 2:15 pm to 4:45 pm, and will minimize traffic during these hours. Traffic should be traveling with bus traffic not against. If a driver unavoidably encounters a bus, it will yield the right of way to the bus. Also, during construction of the site entrance and/or while trucks are
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unable to pull directly onto location trucking will be halted from 7am to 9am during the school year.

vi) Roving Patrol will be utilized to ensure that all traffic guidelines are being observed by vendors and employees. The duties of the roving patrol officer are to:

- (1) During traffic intensive operations such as rocking the site and hydraulic fracturing roving patrol will be present during daylight hours to monitor company traffic at all times.
- (2) Monitor company traffic, including the following; employee and vendor behavior such as courteous and professional driving practices, maintaining appropriate speeds and littering.

vii) The applicant shall instruct its truck hauling contractors to schedule their hauling activities not to interfere with school bus traffic schedules or peak public traffic schedules.

viii) No trucks shall park or stack along any public roads within the Township relative to accomplishing ingress or regress to the Pad site, but shall only park or stack such truck vehicles on the private driveway as to said Pad site.

SECTION 5. Enforcement and Penalties: Enforcement Remedies: Any operator or person performing work who violates or permits a violation of any provision of this Ordinance amendment shall be notified in person or in writing of such determination by the Zoning Officer. Enforcement proceedings may include the issuance of a stop work or cease and desist order depending on the severity of the violation noted. Notice of violation shall include information required by Article VI, Section 616.1 of the Pennsylvania Municipalities Planning Code, and Enforcement Remedies shall be pursued consistent with Section 175-87, Violations and Penalties; Enforcement Procedures, of this Ordinance.

SECTION 6. Repealer: All ordinances, code sections or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7. Severability: Should any sentence, section, clause, part or provisions of this Ordinance amendment be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

DULY ENACTED AND ORDAINED this 13th day of November 2013, by the Board of Supervisors of the Township of Daugherty, Beaver County, Pennsylvania, in lawful session duly assembled.

ATTEST:

TOWNSHIP OF DAUGHERTY

Sean M. Conant
Secretary-Treasurer

By: Bill J. Pappalardo
Chairman, Board of Supervisors

By: Thomas Albanese
Vice Chairman, Board of Supervisors

By: James Kalyan
Supervisor, Board of Supervisors