

**TOWNSHIP OF ALEPPO
ALLEGHENY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2020-02

AN ORDINANCE OF THE TOWNSHIP OF ALEPPO, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING SECTION 400-74 OF THE ZONING ORDINANCE OF ALEPPO TOWNSHIP, AND PROVIDING FOR THE EXPLORATION, RECOVERY, AND PRODUCTION OF OIL OR NATURAL GAS AS A CONDITIONAL USE IN THE C-2 COMMERCIAL INDUSTRIAL DISTRICT.

WHEREAS, the Township of Aleppo has the authority to promote the safety, health, convenience and general welfare of its residents; to protect the character of the community, facilitating beneficial and compatible land uses; and to encourage the orderly development of use of land consistent with local demographic and environmental concerns; and

WHEREAS, the Township of Aleppo desires to promote the reasonable *Development of Oil and Gas Resources* and to ensure that property owners have the right to enjoy their property and its benefits and revenues where feasible; and

WHEREAS, the *Development of Oil and Gas Resources* involves activities that may cause pollution of water and air and may impact the Township's environment, infrastructure, and related public health, welfare, safety and convenience; and

WHEREAS the Township of Aleppo deems it appropriate to enact regulations regarding activities associated with the *Development of Oil and Gas Resources* consistent with the Municipalities Planning Code (MPC) which are not otherwise within the jurisdiction of federal and state regulations and from which the Township is not preempted; and which impose conditions, requirements or limitations on features of the *Development of Oil and Gas Resources* that are not otherwise provided for pursuant to applicable law;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Commissioners of Aleppo Township, Allegheny County, Pennsylvania, as follows:

The Zoning Ordinance of the Township of Aleppo is amended by adding Section 400-74-(19) which will allow for *Development of Oil and Gas Resources and Related Operations* as a conditional use in the C-2 Commercial Industrial Zoning District, under the terms and conditions hereinafter set forth.

Section 1. Definitions

The following new definitions are added and inserted in alphabetical order and with consecutive numbers appearing before and after the added definition to Section 400-8:

- 1) Ambient Noise Level: The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location without extreme

atmospheric conditions such as wind greater than three meters per second or precipitation and then adjusting the noise level to eliminate any noise associated with then existing Oil and Gas Developments or Related Operations. The noise level shall be established based on a test performed during a continuous seventy-two (72) hour time span which shall include at least one twenty-four (24) hour reading during either a Saturday or Sunday. The testing shall be done by a qualified Noise Control Engineer or other qualified person whose credentials are acceptable to the Township and shall be in accordance with specifications ANSI S12.18-1994 Method II and ANSI S1.4-1971. The Township reserves all right to hire a third party consultant to witness testing and review the results. The third party costs will be deducted from the escrow deposit referred to in this Section. The sound level meters used shall meet the American National Standard Institute's standard for Type I sound level meter.

2) Township: Township of Aleppo, Allegheny County, Pennsylvania.

3) Closed Loop Storage System: A system of storage that replaces open *wastewater pits* with a series of closed tanks for the storage of *hazardous substance*, the storage of *toxic* pollutants, the storage of chemically-laden drilling wastewater, produced "briny water", or *flow back of fracking fluids* and in which the wastes created through the *drilling and hydraulic fracturing* processes are later transferred off-site for treatment and/or disposal.

4) Development of Oil and Gas Resources: All activities, equipment, materials, and facilities that are involved in *Oil and Gas Development and Related Operations* and that require more complex operations of longer duration than what is typically required for shallower, more conventional methods of oil and gas exploration, recovery, and production. These include operations for the exploration, recovery and production of subsurface oil or gas from a shale reservoir or source rock, such as the Marcellus shale or similar types of hydrocarbon-rich formations.

5) Disposal Well: A non-producing gas well used for the storage of waste water.

6) Drilling: The digging or boring of a new well either vertically or horizontally in order to explore for, develop, or produce *oil* and *gas* or other hydrocarbons, or in order to inject gas, water, or any other fluid or substance into the earth for the recovery of *oil* and *gas*.

7) Drill or Well Site: The area that is occupied by the facilities, structures, materials, and equipment, whether temporary or permanent, that are necessary for, or incidental to, the *drilling*, recovery, production, or operation of an oil or gas well.

8) Emergency. May include, but not limited to, any or all of the following: explosion, fire, blow out, loss of circulation material, gas or water pipeline leaks or ruptures, chemical or fuel spills on site, hydrogen sulfide or other toxic gas emissions, or hazardous material spill from vehicle accident, or other occurrence at the *Development or Related Operation* site that would place persons or property at substantial risk.

9) Flow back of Fracking Fluid: The portion of *fracking fluid* that flows back up the well during and after the *hydraulic fracturing process*, containing not only water, sand, and chemicals, but now also mineral salts, heavy metals, and more, and that must be managed because of its toxic character.

- 10) Fracking Fluid: Fluid composed of water, sand, and a wide variety of chemicals injected under high pressure into an oil or gas well to fracture rock layers and improve the recovery of *gas*.
- 11) Freshwater Impoundment: A lined pit that holds large amounts of fresh water withdrawn from streams, lakes, ponds, and rivers and transported to the site by trucks to be used in future *hydraulic fracturing* operations.
- 12) Gathering System Facility: A facility associated with a gathering system or water collection line such as a drip station, vent station, pigging facility, chemical injection station, or transfer pump station.
- 13) Hazardous substance: Hazardous substances defined by federal law as “solid wastes” that “cause, or significantly contribute to an increase in mortality or illness” or “pose a substantial present or potential hazard to human health or the environment when Improperly treated, stored, transported or disposed.
- 14) Hydraulic Fracturing (Hydro-fracking/Fracking): The process of injecting water, customized fracking fluid, steam, or gas into an oil or gas well under pressure to break apart rock layers in order to release gas and improve recovery of gas.
- 15) Indemnified Parties: The Township of Aleppo, Pennsylvania, its departments, agents, officers, servants, employees, sponsors, or volunteers, the inspector, and each of their respective heirs, personal representatives, successors, and assigns.
- 16) Natural Gas Compressor Station: A facility designed and constructed to compress natural gas that originates from an oil or gas well or collection of such wells operating as a midstream facility for delivery of *oil and gas* to a transmission pipeline, distribution 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.
- 17) 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.
- 18) Oil and Gas: Crude oil, natural gas, methane gas, coal bed methane, propane, butane and/or any other constituents or similar substances that are produced by drilling a well into, through, and below the surface of the earth.
- 19) Oil and Gas Development (or Development): The *well site* preparation, *well site* construction, *drilling, hydraulic fracturing*, site restoration/reclamation, and other activities associated with oil and gas wells that require more complex operations of longer duration than what is typically required for shallower, more conventional wells, and that include operations for the recovery of subsurface oil or gas from a shale reservoir or source rock,

such as the Marcellus shale or similar types of hydrocarbon-rich formations; also the 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 processing plants* or facilities performing the equivalent functions that operate as midstream facilities.

20) Operator: Any person, partnership, company, corporation and its subcontractors and agents who have an interest in real estate for the purpose of exploring or drilling for, producing, or transporting oil or gas and whose operation is the subject of the Conditional Use application.

21) Production Facility: A facility related to the production of gas which utilizes motors and/or engines.

22) Protected Structures: Any occupied residence, commercial business, school, hospital, nursing home, day care facility, religious institution or other public building located within a one thousand (1,000) foot radius (the area of “presumed responsibility”) of the surface location of a *well, Related Operation*, that may be impacted by noise and other negative effects generated from *drilling or hydraulic fracturing* activity at a *drill site* or from operations at a *natural gas processing plant or compressor station*. 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 or occupants have signed a waiver relieving the *Operator* from implementation of the measures established in *noise section* of this Ordinance, for the owners’ or occupants’ benefit.

23) Related Operation: Natural gas compressor station, natural gas processing plant, gathering system facility, or production facility and facilities performing equivalent functions.

24) Retention Pond/Wastewater Pit: Open pit lined with watertight material used for the storage of gas drilling wastewater — produced “briny” water or the *flow back of fracking fluids*.

25) Re-drill: The deepening or horizontal drilling of an existing well bore, extending more than one-hundred fifty (150) feet.

26) Re-frack: The repeat of the hydraulic fracturing process for a second or more times during the life of the well, to stimulate further gas exploitation.

27) Re-work: The re-entry into an existing well within the existing bore hole or by deepening or sidetrack/horizontal drilling operations which do not extend more than one-hundred fifty (150) feet from the existing well bore, or by replacement of well liners or casings.

28) Toxic pollutants: a subset of *hazardous substances*, including pollutants that “after discharge and upon exposure, ingestion or inhalation . . . [by] any organism” will “cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, physiological malfunctions, . . . or physical deformations in such organisms or their offspring” (33 U.S.C.A. §1362).

29) Well Pad Site: A *drill or well site* containing either a single well or multiple wells and the associated surface equipment.

30) Work-over Operation: The work performed in a well after completion in an effort to secure production where there has been none, restore production that has ceased, or increase production.

Section 2. Oil and Gas Development or Related Operations as a Conditional Use.

Section 400-74 is revised as follows:

(19). It is hereby declared that *Oil and Gas Development* is a Conditional Use in the C-2 Commercial Industrial District of the Township of Aleppo on property that is a minimum of ten (10) acres or larger. Multiple property owners can combine adjoining parcels in the District to achieve the minimum ten (10) acres required. *Oil and Gas Development* is not permitted in any other Township zoning districts. It is also hereby declared that the *Related Operations of natural gas processing plants, natural gas compressor stations*, and other midstream facilities are a use that impacts residents, property and the environment in a different manner than *Oil and Gas Developments* and will therefore only be allowed by Conditional Use in the C-2 Commercial Industrial District of the Township of Aleppo on property that is a minimum of ten (10) acres or larger. Related operations are not permitted in any other Township zoning districts. Multiple property owners can combine adjoining parcels in the District to achieve the ten (10) acres required. Oil and Gas Development and/or Related Operations shall be evaluated as a Conditional Use in the C-2 Commercial Industrial District subject to the following express standards and criteria:

1) Conditional Use Application Process

A person or entity desiring approval of a Conditional Use application pursuant to this Section shall submit a written application. This application shall not be considered complete and properly filed unless and until all items required by this section, including the application fee and escrow amount, have been received. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Ordinance and other applicable ordinances. Such application shall include the following information and plans:

- a) A general description of the planned operations at the *Development* site or *Related Operation* site to include the number of acres to be disturbed, the associated equipment to be used, and for the *drill site*, a schedule of anticipated

beginning and ending dates of site preparation, drilling activity, perforating work, fracking work, and production work.

- b) An accurate legal description of the surface lease property proposed to be used for the *Development* or *Related Operation*, and, if applicable for a *Development*, the pooled parcels included in the plan, and the list of property owners in the lease pool with property recorded by block and lot numbers.
- c) A Traffic Impact Study to include a map showing the planned access route to the *Development* or *Related Operation* site on public roads and a description of plans for transportation of materials and equipment (*See section on Road Use and Drill Site Access)
- d) Information on the status of road bonding, as per the Township Roadway Maintenance and Repair Agreement (*See section on Road Use and Drill Site Access).
- e) The site plan prepared by a licensed engineer to establish compliance with all applicable regulations and that will show the planned surface locations of the well, derricks, fresh water impoundments, drilling rigs, equipment, temporary and permanent structures, fencing, and landscaping, all permanent improvements to the site, and any post-construction disturbance. The landscape plan shall be sealed by a licensed landscape architect.
- f) Written authorization from the property owners who have legal or equitable title to the mineral rights of the proposed *Development* or *Related Operation*, and a copy of the oil/gas drilling lease, less any confidential information.
- g) Written authorization from the surface property owners granting permission for the Operator to access the *Development* or *Related Operation* site.
- h) Copies of any and all waivers from owners of *Protected Structures*.
- i) The contact information for the Operator, including the GIS location of the proposed *Development* or *Related Operations* as well as a site address determined by the County 911 addressing program and registered within the GPS system for the use of emergency first responders. The location shall include the nearest crossroads and intersections.
- j) Certification that a bond is held by the PA DEP to ensure proper plugging when the well is classified as inactive by the PA DEP.
- k) A Preparedness, Prevention, and Contingency Plan ("PPC") as defined in the PA DEP document *Guidelines for the Development and Implementation of Environmental Emergency Response Plans* or the most recent applicable guidance document. (*See section on Emergency and Safety Procedures).
- l) A *Noise Management Plan* shall detail how the equipment used in connection with the *Development* or *Related Operation*, including, but not limited to, the

drilling, completion, transportation, or production of a well, compare with the maximum permissible noise levels. (*See section on Noise).

- (i) The Noise Management Plan must:
 - (1) Identify the sound power level of all major equipment and/or processes including the identification of maximum sound and power levels at all points designated by the Township;
 - (2) Provide documentation establishing the *Ambient Noise Level*;
 - (3) Provide documentation including computer modeling in form and substance satisfactory to the Township and performed by a qualified person whose credentials are acceptable to the Township, establishing compliance with this section during the construction and operation of the applicable *Development* or *Related Operation*; and
 - (4) Detail how noise impacts will be mitigated.
- (ii) In determining noise mitigation, specific site characteristics shall be considered, including but not limited to, the following:
 - (1) Nature and proximity of adjacent development, location and type;
 - (2) Seasonal and prevailing wind patterns, including wind directions;
 - (3) Vegetative cover on or adjacent to the site; and
 - (4) Topography
- (iii) Operation and site noise management measures may include, but are not limited to:
 - (1) the use of critical grade mufflers on generators and motors;
 - (2) equipment or process substitution with a lower sound power level;
 - (3) use of structural noise curtains, walls, or enclosures;
 - (4) best management practices for utilizing best available control technology to limit or eliminate noisier operations;
 - (5) increase of setbacks;
 - (6) erection of sound barriers; and

- (7) alerting the direction, size, proximity, duration and extent of the operations associated with the applicable *Development* or *Related Operation*.
- m) Copies of any and all permits and applications submitted to the various local, state, and federal agencies. Permits and plans shall include but shall not be limited to the PA DEP well application and permit, ESCGP-1, (Erosion & Sedimentation Control General Permit) or other erosion and sedimentation permits, and all air, water, and waste management permits.
- n) A water withdrawal plan for the *Development* or *Related Operation* identifying the source of the water, how many gallons will be used and withdrawn each day, the origination of the water, the proposed truck routes, and all permits issued by the Commonwealth of PA or any other governmental body. The site for the treatment and disposal of the water shall also be identified.
- o) A disposal plan identifying the means for disposal of cuttings, fracturing fluids, oil, toxic materials, hazardous materials, and other waste products.
- p) A plan for the transmission of gas from the *Development* or *Related Operation* to an off-site pipeline — or a statement that there is no off-site pipeline. The plan shall identify, but shall not be limited to, gathering lines, compressor stations, and other mid and downstream facilities located within the Township and extending 800 feet beyond the Township boundary. Evidence of easements to cross private property along the route, as well as Township approval to utilize any public right-of-way, shall also be required. The contact information for the pipeline owner and pipeline operator shall also be included.
- q) List of owners and addresses of each parcel of property within 1000 feet of the boundaries of the proposed *Development* or *Related Operation* site.
- r) Copies of valid insurance policies issued by a corporate insurer licensed in the Commonwealth of PA with a rating of not less than an “A” in the most recent edition of Best’s Insurance Reports and that shall have been in business for at least the past five years from the date of application. (*See section on Insurance).
- s) A Community and Environmental Impact Analysis drafted by an independent environmental engineering consultant whose credentials are acceptable to the Township and whose fee is paid by the applicant. The purpose of the statement is to determine the environmental impact of the project on the immediate site and surrounding area. This information will allow the Township to make more informed decisions relating to the proposed action. At a minimum, the statement shall provide the following information:
- (i) A description of the proposed *Development* or *Related Operation*, its purpose, a schedule of construction and length of operation and its

interrelationship with other oil and gas developments within the Township. This information and technical data must be sufficient to allow a thorough assessment of the proposed *Development or Related Operation's* environmental impact.

- (ii) A comprehensive description of the baseline environmental conditions identified before any activities associated with *Development or Related Operation*.
- (iii) A description of the environmental impacts of the proposed *Development or Related Operation* both during and after complete build-out of the proposed *Development or Related Operation*. This description shall focus both on the environmental details most likely to be affected by the proposed *Development or Related Operation* and on the broader regional aspects of the environment impacts, including ecological interrelationships. These impacts shall be defined as direct or indirect changes in the existing environment, and as either beneficial or detrimental. Whenever possible, these impacts should be quantified. This discussion shall include the impact not only upon the nature environment, but upon land use as well.
- (iv) A discussion of potential impacts of man-caused accidents and natural catastrophes and their probabilities and risks with supporting statistics developed by analyzing similar *Developments or Related Operations* at similar locations.
- (v) A discussion of measures that are required to protect or mitigate impacts upon the environment, including any associated research or monitoring. The discussion must include sufficient documentation and supporting material to demonstrate that the proposed measures will function as expected.
- (vi) A discussion of the unavoidable adverse impacts described in (iii) and (iv) above — both the short term impacts (i.e. those occurring during build-out of the *Development or Related Operation*), the long term impacts, and the cumulative impacts on the environment. Particular attention should be paid to the *Development or Related Operation's* relationship to trends of similar *Developments or Related Operations* (e.g., cumulative noise degradation posed by nearby *Developments or Related Operations*).
- (vii) Hydrologic analysis and information, including but not limited to, a description, inventory, analysis, and evaluation of the existing groundwater conditions. This analysis must be focused in terms of both surface water and groundwater quality and quantity, a discussion of likely and possible changes to these resources, and a discussion of measures to reduce or mitigate the identified impacts. The analysis must include those Township residents within two thousand (2,000)

feet of the proposed *Development* or *Related Operation* who depend on well water.

- t) The express standards and conditions referenced herein shall also be addressed and submitted with the Conditional Use applicant's application for preliminary and final land development and/or subdivision approval consistent with the Township's Subdivision and Land Development Ordinance. An escrow account for the review by professional consultants under the Subdivision and Land Development Ordinance shall be established by the applicant in the amount of \$25,000.00. The escrow amounts shall be immediately replenished in full by the applicant if the balance of the account reaches \$10,000.00. The escrow account shall be maintained following final Conditional Use Approval to provide for inspections in accordance with the Subdivision and Land Development Ordinance.

2) Restrictions

- a) Operator/Applicant must apply for and obtain a Conditional Use Approval for the drilling of each well. Multiple *well pad* sites on any one *Oil and Gas Development* site shall be prohibited.
- b) Changes in the site plan including, but not limited to, any expansion of the ground surface area used and/or devoted towards drilling operations or changes in depth, type or extent of *drilling* requires further conditional use approval pursuant to the terms and conditions of this Ordinance. A Conditional Use Approval shall not constitute authority for re-entering or *re-drilling, re-working, or re-fracking*. In such case, the Operator shall obtain a new Conditional Use Approval.
- c) For all *Oil and Gas Developments* or *Related Operations*, if *Development* and/or *drilling* have not been commenced within one year after the Conditional Use Approval of this application, the Conditional Use Approval is automatically rescinded. An extension may be granted by the Township's Board of Commissioners for a maximum of one year upon written request by the applicant, prior to the expiration of the original one-year period, subject to the finding that the plan is still in compliance with all standards.
- d) All development activity in connection with the approved *Development* or *Related Operation* and, specifically, all well site reclamation, must be completed within two (2) years of commencement of development. An extension may be granted by the Township of Board of Commissioners for a maximum of one (1) year upon written request by the applicant, prior to the expiration of the original two-year period, subject to finding that the plan is still in compliance with all standards.
- e) Upon approval of the application, all subsequent activities in connection with Conditional Use Approval shall be carried out in conformance with the site

plan, the conditional use decision, and all conditions, the zoning permit, and all standards and criteria contained in this Ordinance.

- f) This use shall not occur, no Conditional Use Approval shall be granted, and no zoning, building, or grading permits shall be issued, until the applicable procedures and provisions in this Ordinance have been satisfied, the applicable provisions of the other Ordinances of the Township of Aleppo have been satisfied, and all applicable requirements of the Commonwealth of Pennsylvania and United States Government have been satisfied, as evidenced by the prior written approval of the agency having jurisdiction, including, without limitation, the Operator's license and copies of all State and Federal permits.
 - g) Any suspension or revocation of permits by the PA Department of Environmental Protection shall be reported to the Township by the Operator within 1 week and shall constitute a violation of zoning approval and may result in the suspension or revocation of zoning approval within one day.
 - h) The Township may require as a condition of approval an increase in the distance the *Development or Related Operation* is set back from any residence, religious institution, hospital building, school, cemetery, historical site or public park, or require any change in operation, plan, design, layout or any change in the on-site and technical regulations in this Ordinance, including fencing, screening, lighting, delivery times, noise levels, or any other matters reasonably required for the public interest, or required to reasonably protect the interests of adjacent property owners.
 - i) A notice of violation may be immediately issued for failure to comply with any of the provisions of this ordinance and may result in a fine and/or suspension or revocation of the conditional use.
- 3) *Oil and Gas Development and Related Operation* shall not be permitted in the following areas:
- a) Any property located within a floodway or within the 100-year floodplain as identified in the Flood Insurance Study (FIS) prepared and approved by the Federal Emergency Management Agency (FEMA).
 - b) Any property subject to a conservation easement or open space conditions, or any similar restrictions, whether public or private.
 - c) Any property in geologically sensitive areas where *drilling* or production operations may cause the acceleration of geologic processes, such as erosion, sedimentation, or landslide activity of earth and rock material.
 - d) Any property located in the area of the Township that has been designated as a Biological Diversity Area (BDA) in the Allegheny County Natural Heritage

Inventory. This is the highest designation conferred by the Natural Heritage Inventory.

- 4) Communication by Operator/Applicant with residents
 - a) At least sixty (60) days prior to drilling an oil and gas well, the *Operator* shall provide the following information to each property owner within one thousand (1,000) feet of the planned surface location of the well, to each property owner within two thousand (2,000) feet of the proposed *Development or Related Operation* who depend on well water, and to each property owner that uses a well within two thousand (2,000) feet of the planned surface location of the well and to all other adjacent property owners:
 - (i) A copy of the well survey plat
 - (ii) A general description of the planned operations at the planned well and associated equipment used in the development of the well,
 - (iii) The contact information for the *Operator*, including the County 911 site address
 - (iv) The availability of the *Operator* to hold a local meeting with such residents to present *Operator's* plans for the well and to allow for questions and answers. The meeting(s) shall be held prior to *drill site* construction.
 - b) At least 30 days prior to initial development activities in the Township, the *Operator* shall attend a local public meeting to present general information about the *Operators Oil and Gas Development* plans in the Township and allow for questions and answers related thereto. The *Operator* shall advertise, in a newspaper of general circulation within the Township, the date, time, and location of the meeting and the approximate location of the proposed *well site* or *well sites* at least once not more than 30 days and not less than 7 days in advance of the meeting. If requested by the Township and if drilling activities continue for more than 12 months, the *Operator* shall attend additional meetings and present information, but shall not be required to do so more often than annually, unless additional *well sites* not previously discussed at a public meeting are proposed.
- 5) The *Operator* shall provide to the Township Code Enforcement Officer or any others so designated by the Township, at least two (2) weeks prior to commencement of *Development or Related Operation* site construction:
 - a) A map showing the planned access route to the *Development or Related Operation* site on public roads
 - b) Information on the status of road bonding
 - c) The *Operator's* Erosion and Sedimentation Plan

- d) The well survey plat
 - e) The contact information for the *Operator*, with two emergency contact numbers
- 6) Completeness Review of Application
- a) Not later than the 30th day after the date an application is submitted, the Township shall make a written determination of whether all information and documents required by this Ordinance or other applicable ordinances have been submitted. The Township shall mail a determination that the application is incomplete by United States certified mail to the address listed on the application. The determination shall specify the documents or other information needed to complete the application and shall state that the application will expire if the application, together with the identified documents or other information, is not resubmitted within 30 days after the date the notice was sent.
 - b) An application shall not be processed for review until after a determination of completeness has been issued .by the Township.
 - c) The incompleteness of an application shall be grounds for denial of the application regardless of whether a determination of incompleteness was mailed to the applicant.
 - d) An application for approval of a *Development* or *Related Operation* shall be deemed to expire on the 30th day after the application is returned to the applicant for incompleteness, if the applicant fails to provide documents or other information necessary to meet the requirements of this Ordinance or other applicable ordinances as specified in the determination provided to the applicant. Thereafter, a new application must be submitted and a new application fee paid.
- 7) Professional Consultants
- a) The Township may from time to time employ a professional consultant or consultants. The function of the consultant(s) shall be to advise, counsel, represent and/or aid the Township in ensuring compliance with this Ordinance and any other applicable Township codes on such matters relating to *Oil and Gas Development* or *Related Operations* within the Township as:
 - (i) review of all Conditional Use applications for *Oil and Gas Developments* and *Related Operations*
 - (ii) inspection of site during key phases of development
 - (iii) inspection of site upon receipt of a complaint

- (iv) communication with appropriate Township personnel if inspector believes *Operator* is violating a Township code not addressed in this Ordinance
 - (v) authority to request and receive any records, logs, reports relating to the status or condition of the approved *Development* or *Related Operation* necessary to establish and determine compliance with this Ordinance and the Conditional Use Approval.
 - b) In the event a professional consultant is employed for the purpose of advising, counseling, or representing the Township relative to ensuring compliance with this Ordinance and the terms of the Conditional Use Approval or relative to an *Operator's* particular set of circumstances, case, or request relating to this Ordinance, then the cost for such services of the professional consultant shall be assessed against and paid for by such *Operator* in addition to any fees or charges assessed pursuant to this Ordinance and the Township's Subdivision and Land Development Ordinance.
 - c) Prior to the employment of a professional consultant, the Township shall inform the *Operator* of the intended scope of work and the estimated costs and expenses.
- 8) Standards and Criteria
 - a) Setbacks
 - (i) All drilling and production operations, including derricks, *freshwater impoundments*, vacuum pumps, storage tanks, vehicle parking, structures, machinery and ancillary equipment, as well as *Related Operations*, shall be located at least six hundred (600) feet from any building containing a residential dwelling or from any structure used for public assembly, including schools, churches, and public buildings or from any business or commercial establishment, and at least two hundred (200) feet from any property line, where the owners of such structures and properties are not a party to the *Oil and Gas Development*.
 - (ii) All aspects of the recovery of subsurface gas and oil deposits, including without limitation all *drilling*, production operations, *Related Operations*, buildings, pipelines, etc. shall be located at least one hundred and fifty (150) feet from the ultimate right-of-way of any public or private street, and at least two hundred (200) feet from any property line. Pipelines shall be permitted to traverse the required setback only where absolutely necessary to transport extracted product offsite.
 - (iii) All aspects of the recovery of subsurface gas and oil deposits, including without limitation all drilling, production operations, *Related*

Operations, buildings, pipelines, etc. shall be located at least one hundred and fifty (150) feet from the edge of any watercourse or wetland, and said watercourses and wetlands shall be preserved in a natural and undisturbed state.

- (iv) 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, and after taking into consideration the above setbacks, the *Operator* shall strive to consider location of its temporary and permanent operations, where prudent and possible, so as to minimize interference with Township residents' enjoyment of their property and future Township development activities.

9) Emergency and Safety Procedures

- a) As part of the Conditional Use application and zoning permit, the applicant shall provide to the Township its Preparedness, Prevention and Contingency ("PPC") Plan as defined in the PA DEP document *Guidelines for the Development and Implementation of Environmental Emergency Response Plans* or the most recent applicable guideline.

- (i) If the PPC requires availability and/or utilization of special equipment or supplies particular to the emergency hazards or conditions addressed in the PPC, the Township may require that the *Operator* reimburse the Township for the cost of procurement of such special equipment or supplies and for the cost of any emergency equipment damaged or destroyed during the handling of *Emergencies*.

- (ii) The Preparedness, Prevention, and Contingency Plan ("PPC") shall be made available to all Township emergency first responders, including fire department (and local mutual aid fire departments), police department, emergency medical services, and the zoning officer.

- (iii) The PPC will demonstrate the following:

- (1) Name, address, and phone number, including 24-hour emergency numbers of at least two (2) persons responsible for *Development* or *Related Operation* activities.

- (2) Phone number of Emergency Well Control Service, with which *Operator* has a contract, to be called after calling 911, in case of well fire or blow out.

- (3) The GIS location of the proposed *Development* or *Related Operation* as well as the site address determined by the County 911 addressing program and registered within the GPS system.

- (4) Site Plan to include a second point of access and egress.

- (5) First responders emergency preparedness protocols for all potential hazardous scenarios and emergencies, including, but not limited to, explosions, fires, geological activity, flooding, pipe rupture, or other surface contamination by hazardous and/or flammable materials.
 - (6) KNOX-BOX Rapid Entry System set up for easy access to locked site.
 - (7) Method of notification in case of *Emergency* to all occupants within 1,000 feet of the boundary of the *Development* or *Related Operation* site.
 - (8) A detailed evacuation plan addressing the evacuation strategy and the designated evacuation site for any public or private school, hospital, daycare facility, or concentrated residential, commercial or industrial area if any such facility or area will be located within 2,000 feet of the proposed *Development* or *Related Operation* site.
 - (9) Designation of a “muster site” where all employees, contractors, and subcontractors on site should gather in order to be counted in the event of an incident.
- b) The Operator shall maintain at the property and on file with the Township and the Township Fire Department a current list and the Material Safety Data Sheets (MSDS) for all chemicals used in the *drilling* operations and in any *hydraulic fracturing* operations, including but not limited to types of additives, polymers, salts, surfactants, and solvents.
- (i) Any hazardous or toxic material shall be securely contained, stored, and removed in accordance with applicable state or federal regulations. On-site disposal is prohibited. Open chemical storage is prohibited. All hazardous materials stored must be clearly marked identifying the contents, chemicals, and hazards as required by OSHA Hazard Communication Standard 29 CFR 1910.1200 and National Fire Protection Association Code 704-*Standard System for the Identification of the Hazards of Materials for Emergency Response*.
 - (ii) Upon request of the Township, the applicant will, prior to drilling its first oil and gas well in the Township, make available with at least 30 day notice, at the applicant’s sole cost and expense, one appropriate on-site orientation and group training program of at least five hours for Township emergency first responders and the local mutual aid fire departments. Such training shall be made available again immediately after any substantial modification to the *Development* or *Related Operation* site, or at least annually during any year that *drilling*

activities take place at the *Development* or *Related Operation* site.

- (iii) In the event of an *emergency*, the *Operator* shall cause all occupants within 1,000 feet of the boundary of the *Development* or *Related Operation* site to be notified as soon as is reasonably possible. The method of notification shall be specified in the "PPC."
- (iv) In the event of an *emergency* requiring evacuation, the *Operator* shall cause all occupants within 2,000 feet of the boundary of the *Development* or *Related Operation* site to be evacuated as soon as is reasonably possible to a designated evacuation site. The evacuation plan shall be specified in the "PPC".
- (v) Open *wastewater pits* or *retention ponds* are prohibited on the drill site. A *closed loop storage system* of wastewater containment is to be in use at all times. Any hazardous or toxic material shall not be disposed of on-site, but shall be removed in accordance with applicable State and Federal regulations. *Disposal wells* are also prohibited. *Freshwater impoundments* are permitted. Unless otherwise directed by the DEP, waste materials shall be removed from the site and transported to an off-site DEP-approved waste water treatment facility not less often than every thirty (30) days.
- (vi) Drip pans and other containment devices shall be placed or installed underneath all tanks, containers, pumps, lubricating oil systems, engines, fuel and chemical storage tanks, system valves, connections, and any other areas or structures that could potentially leak, discharge, or spill hazardous liquids.
- (vii) The *Operator* shall be responsible for prevention and prompt removal of spills involving waste materials, oil, and toxic or hazardous materials. After any spill, leak, or malfunction, the *Operator* shall remove or cause to be removed to the satisfaction of the PA DEP inspectors and the Fire Chief of the Fire Department serving the Township all waste materials from any public or private property affected by such spill, leak, or malfunction. Clean-up operations must begin immediately upon knowledge that a spill, leak, or malfunction has occurred.
- (viii) The *Operator* of any *well site* shall notify the Fire Department serving the Township and Township Code Enforcement Officer no less than 90 days prior to the abandonment or shutdown of any *well site*, to allow the Township to inspect the site and ensure that the *well site* has been properly secured.
- (ix) For areas that, in the opinion of the Fire Chief of the Fire Department serving the Township, are of potential wildfire hazard, fire line

intensities shall be abated to less than 100 BTU/foot/second through fuel breaks or other equally effective means around structures or areas of activity. Required practices for grass/shrub lands include the following:

- (1) Fuel breaks of a width 3-4 times the height of adjacent vegetation
- (2) Re-vegetation to short grasses

e) Additional Safety Regulations

- (i) The *Operator* shall install temporary safety fencing, at least six (6) feet in height, around *drilling* and *hydraulic fracturing* equipment, during initial *drilling*, completion, or *work-over operations*, unless 24-hour on-site supervision is provided. Only essential safety and emergency personnel shall be permitted to occupy any trailer, or temporary living quarters at the site overnight.
- (ii) The *Operator* shall install temporary fall protection fencing meeting OSHA requirements around any temporary impoundments containing fresh water at depths greater than two feet.
- (iii) The *Operator* shall install permanent chain link fencing allowing sufficient visibility for security monitoring, that shall enclose all well heads, storage tanks, separation facilities, or other mechanical or production equipment on the operation site.
- (iv) The *Operator* shall install an adequate number of warning signs providing notice of the potential dangers at the perimeter of the *Development* or *Related Operation* site.
- (v) The *Operator* shall install a secured entrance gate to the *Development* site access driveway off the public road to prevent illegal access into the *Development* site.
 - (1) A KNOX-BOX Rapid Entry System to secure the site but still allow easy and quick access for Emergency First Responders shall be required, and all gates shall be kept locked when the applicant, employees, and sub-contractors are not on the premises.
 - (2) The *Development* site emergency 911 assigned address shall be clearly visible on a sign attached to the access gate.
 - (3) The sign shall include the well name and number, name of the *Operator*, and the telephone number for at least **two** persons who may be contacted in case of emergency.

- (vi) Fencing Standards - Prior to the commencement of and during all operations, the *drill site* areas and *Related Operation* site shall be completely enclosed by fencing material. Upon completion of the well, all fencing and walls not necessary for appropriate screening, noise abatement, or security shall be removed from the *Development* site.
- (1) The fence fabric shall be at least six (6) feet in height.
 - (2) Support posts shall be set in concrete and shall be imbedded into the ground to a depth sufficient to maintain the stability of the fence. Temporary fence posts shall not be required to be set in concrete.
 - (3) The chain link fabric shall be galvanized steel wire with a minimum plating of 1.2 ounces of zinc per square foot of surface area or shall be coated with vinyl or plastic material, approved by the Township building inspector.
 - (4) The chain link fence fabric shall have a minimum thickness of 11 gauge and be of dark green or black chain link construction.
 - (5) The chain link fabric shall be two-inch mesh; provided, however, three and one-half-inch mesh may be used on any fence where the fabric is interwoven with artificial screening material approved by the Borough building inspector.
 - (6) Post and rail shall be standard galvanized, welded pipe, Schedule 40 or thicker.
 - (7) All pipe and other ferrous parts, except chain link fabric and drill pipe, shall be galvanized inside and outside with a plating which contains a minimum of one and two tenths ounces of zinc per square foot of surface area.
 - (8) Tension rods shall be three-eighths-inch round steel bolt stock. Adjustable tighteners shall be tumbuckle or equivalent having a six-inch minimum take-up. Tension bars shall have a minimum thickness of one-fourth by three-fourths inch.
 - (9) All fences shall have security extension arms at the top of such fences and such security extension arms shall be strung with galvanized barbed wire.
- (vii) Secured Entrance Gate Standards - For all points of ingress and egress to the *Development* or *Related Operation* site, the chain link fence gate shall meet the following specifications.
- (1) Each gate opening shall be not less than fourteen (14) feet wide and be composed of two (2) gates, each of which is not less than

seven (7) feet wide, or one (1) sliding gate not less than fourteen (14) feet wide. If two (2) gates are used, gates shall latch and lock in the center of the span.

- (2) The gates shall be of black or dark green chain link construction that meets the applicable specifications, or of other approved material that, for safety reasons, shall be at least as secure as the chain link fence.
 - (3) The gates shall be provided with a KNOX-BOX Rapid Entry System, and shall be kept locked except when being used for access to the site.
 - (4) Hinges shall be heavy-duty malleable iron or steel industrial service type with a 180 degree swing.
- (viii) Modification - The Zoning Officer may approve other fencing types as may be necessary to maintain community character provided that all production equipment on the site is completely enclosed and secured,
- (ix) On-Site Storage
- (1) No *drilling, re-drilling, re-working* or other portable equipment shall be stored on the operation site which is not essential to the everyday operation of the well located thereon. This includes the removal of idle equipment for the operation of such wells.
 - (2) Lumber, pipes, tubing, and casing shall not be left on the operation site except when *drilling* or well servicing operations are being conducted on the site.
 - (3) 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 indoors, or in a dumpster, or other permitted enclosure.
 - (4) It shall be illegal for any person, owner, or *Operator* to park or store any vehicle or item of machinery on any street, right-of-way or in any driveway, alley, or upon any operation or *drilling site* which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for the maintenance of the *well site* or for gathering or transportation of hydrocarbon substances from the site.

f) Private Fresh Water Well Testing

- (i) The *Operator* of a well shall provide the Township with the results of a “pre-drilling” and “postdrilling” water analysis and flow rate for each

existing freshwater well within 2,000 feet of the *well site*. The tests shall conform to the following testing requirements:

- (1) Water samples must be collected and analyzed utilizing proper sampling and laboratory protocol from an independent PA Department of Environmental Protection-certified water testing laboratory.
 - (2) Well samples shall be analyzed prior to any drilling activity to document baseline water quality data of the well.
 - (3) Well samples shall also be analyzed prior to drilling activity to document the quantity of water produced by the well.
 - (4) A post-drilling sample analysis shall be submitted for water quality testing by the *Operator* within three months after *drilling* is completed.
 - (5) Well owners have the right to perform intermediate analyses at their own expense. In the event that the intermediate sample indicates well water contamination, the *Operator* is responsible for the costs of the analysis.
 - (6) Parameters to be tested for include, but are not limited to, methane, chloride, sodium, TDS, pH, arsenic, barium and strontium, and subgroup of the volatile organic chemicals (VOC's) called BTEX (benzene, toluene, etc.).
 - (ii) If it is found that a fresh water well is no longer in use and without possibility of future use or if the fresh water well owner objects to having the water well tested, the owner of the fresh water well may waive the right to have the *Operator* test the water. In such instance, the owner must execute an agreement releasing and holding harmless the Township, its officers, and its employees from any damages.
- g) If the results of the pre-drilling and post-drilling sample (or any intermediate sample) analyses indicate well water contamination or reduction in the quantity of water flow, the *Operator* will provide a public water line to the residence at the *Operator's* expense within 90 days. In addition, the *Operator* will provide potable water in the interim. The owner of the well may also file a complaint with the regional DEP, Bureau of Oil and Gas office. The owner may also file an insurance claim against the commercial liability insurance (or the environmental pollution insurance) that was purchased by the operator as part of the *Drilling or Related Operation*.
- h) Road Use and Drill Site Access
 - (i) The *Operator* shall provide a Traffic Impact Study or description of the plan for the transportation and delivery of equipment, machinery,

water, chemicals, products, materials, waste products and other items that will be utilized or produced in the siting, *drilling*, stimulating, completion, alteration and operation of the *Development* or *Related Operation*. Such description shall include:

- (1) A map showing the planned vehicular access route to the *Development* or *Related Operation* site, indicating all private access roads, all state, county, and local roads, bridges, and other transportation infrastructure that may be used, and the type, weight, number of trucks, and delivery schedule necessary to support each phase of the development.
 - (2) A list of all trucking contractors or employees of the *Operator* who will travel to and from the *Development* or *Related Operation* site with evidence of required registrations, licenses, and insurance coverage.
 - (3) The proposed routes must be designed to ensure adequate capacity for existing and projected traffic volumes, allow for efficient movement of traffic, including appropriate turning radii and transition grade, and minimize hazards to users of public roads and to adjacent property and human activity.
 - (4) Whenever possible, a *Development* site should have vehicle access from a collector street, as defined by the Federal Highway Administration (FHWA).
 - (5) Use of streets serving exclusively residential neighborhoods is prohibited.
 - (6) The Township reserves the right to designate alternate routes in the event the applicant's proposed routes are deemed inadequate, unsafe, or overly disruptive to normal vehicular traffic by the Township engineer.
 - (7) The Township also reserves the right to reduce speed limits on areas of roads especially dangerous for trucks hauling hazardous materials.
- (ii) The *Operator* of the *Oil and Gas Development* shall execute a Roadway Maintenance and Repair Agreement with the Township and post a bond for the paved highway in favor of the Township and in a form acceptable the Township prior to beginning any work on a *drill site*.
 - (iii) The Roadway Maintenance and Repair Agreement shall require the *Operator* to conduct an inventory, analysis, and evaluation of existing conditions on Township roads along the proposed transportation route, including photography/video and core boring as determined to

be necessary by the Township Engineer. The Township Roadway Maintenance and Repair Agreement will identify the responsibilities of the Operator to prepare, maintain, and repair Township roads before, during, and immediately after drilling operations associated with the *Oil and Gas Development or Related Operation*. The *Operator* shall take all necessary corrective action and measures as directed by the Township pursuant to the agreement.

- (iv) Beginning with its intersection with a public street, any access road for the *Development* site shall be improved with limestone or other material for 200 feet and be provided with French drains or other necessary improvements, such that no water, sediment, or debris will be carried onto any public street. If any substantial amount of mud, dirt, or other debris is carried on to public or private rights-of-way from the *Development* site, the *Operator* shall immediately clean the roads and implement a remedial plan as directed by the Township to keep the roads continuously clean.
- (v) All weather access roads, suitable to handle emergency equipment, shall be provided to within 50 feet of any structure, improvement, or activity area.
- (vi) *Operator* shall take necessary safeguards to ensure appropriate dust control measures are in place.
- (vii) All applicable permits or approvals must be obtained, including access or driveway permits to state, county or Townships roads, construction permits within state, county, or Township roads, and permits for overweight or oversize loads. Access directly to state roads shall require Penn DOT Highway Occupancy Permit for overweight vehicles. The Township shall be provided a copy of this and all other applicable permits or approvals.
- (viii) An off-street area within the *Development* site for vehicles to stand while gaining access to and from the *Development* site shall be provided so that the normal flow of traffic on the public street is undisturbed. Ingress and egress points for all public and private driveways or roadways shall be located and improved in order to meet Pennsylvania Code 67 Chapter 441 "Access to and Occupancy of Highways by Driveway and Local Roads" PennDot Design Manual 2.
- (ix) *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 the *Development*, *Operator* will provide flagmen to ensure the public safety

and include adequate signs and/or other warning measures for truck traffic and vehicular traffic.

i) Noise

- (i) The applicant shall be responsible for establishing to the Township that the *Development* or *Related Operation* complies with all applicable noise regulations, including but not limited to, the noise regulations contained in this Ordinance.
- (ii) The noise generated by the *Development* or *Related Operation*, when measured from the source of the sound to the property line of the nearest *Protected Structure*, shall not:
 - (1) Exceed the *Ambient Noise Level* by more than five (5) *dba* from 7 a.m. to 7 p.m. local time and by more than three (3) *dba* from 7 p.m. to 7 a.m. local time.
 - (2) During *drilling* and *hydraulic fracturing* operations, exceed the *Ambient Noise Level* by more than ten (10) *dba* from 7 a.m. to 7 p.m. local time or by more than five (5) *dba* from 7 p.m. to 7 a.m. local time.
 - (3) The *Operator* shall be responsible for continuously monitoring the noise level generated by the *Development* site through completion of the *Development*. The equipment used for the monitoring shall permit the Township remote access to the data at any time. The *Operator* shall be responsible for audio file recording to identify and immediately remediate any deviations from the allowable noise levels. The costs shall be borne by the *Operator*. The file shall be maintained through the completion of the well.
 - (4) No person shall operate or permit to be operated in connection with the operation of a *Development* or *Related Operation* any engine, small compressor, or motor-driven machinery of any type, which creates a sound level that exceeds the *Ambient Noise Level* by more than five (5) *dba* from 7 a.m. to 7 p.m. local time and by more than three (3) *dba* from 7 p.m. to 7 a.m. local time when measured at the property line of the nearest *Protected Structure*.
- (iii) The Township serves the right to require temporary or permanent erection and use of sound barriers to ensure compliance depending on the location of the *Oil and Gas Development* or *Related Operations* to adjacent residential or commercial properties. These may include, but are not limited to, acoustical blankets, sound walls, mufflers, or construction of buildings or other enclosures.

j) Air Quality

- (i) 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.
- (ii) Offensive or noxious odors, gases, or dust shall be confined to the subject property or the leasehold premises and shall not substantially or significantly impact any occupied structures or dwelling.

k) Lighting

Recognizing that adequate and appropriate lighting is essential to the safety of those involved in the *Development of Oil and Gas Resources*, the Operator shall take steps, to the extent practicable, to direct site lighting downward and inward toward the *drill site*, wellhead, or other area being developed so as to attempt to minimize glare on public roads and adjacent buildings.

- (i) The illumination projected from the *Development or Related Operation* shall at no time exceed 0.1 foot-candle, measured at any property line.
- (ii) All lighting shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light or glare onto a neighboring use or property.
- (iii) The lighting system shall be designed with cutoff luminaries that have a cutoff angle of 60° or less.
- (iv) After hours of operations or when the site has been fully developed and reclaimed, lighting shall be reduced to the minimum required for safety and security purposes.
- (v) Glare from gas flaring shall be considered illumination.

l) Hours of Operation

Except for emergency operations or initial *drilling* and *hydraulic fracturing* operations, hours of operation at an *Oil and Gas Development* are limited to Monday through Friday, 7 a.m. – 7 p.m. and not permitted on week-ends or legal holidays.

m) Screening/Visual

- (i) The *Well Site*, access roads/driveways, and all structures shall be located, designed and constructed to minimize the removal of trees and shrubs, protect all natural resources, and minimize the amount of

surface disturbance. Care shall be taken to maintain as much natural screening as possible, leaving existing trees and respective root systems undisturbed to the extent possible.

- (ii) *Operator* shall not clear brush or trees by way of burning, and shall chip, grind or remove all brush, trees, and tree stumps from properties it clears for development purposes.
- (iii) The location and design of structures and site improvements shall be integrated with the natural color, form and texture of the surrounding area. All permanent facilities shall be painted neutral colors to blend in with the surrounding area.

n) Reclamation/Restoration of All Disturbed Areas

- (i) Reclamation shall be initiated as soon as weather and growing conditions permit after the abandonment of the well or installation of production equipment.
 - (1) Reclamation shall be completed no more than one (1) year after this point.
 - (2) Reclamation shall comply with the approved landscape plan submitted with the Conditional Use application.
- (ii) Reclamation shall be carried out on all disturbed areas and achieve the following objectives:
 - (1) Final soil profiles shall be designed to equal or reduce soil erosion potentials over stable pre-operation conditions - and final land forms shall be stable.
 - (2) Pre-existing visual character of site shall be restored or enhanced through planting of local or adaptive vegetation. Invasive species shall not be considered acceptable.
 - (3) Disturbance of soil cover shall be minimized.
- (iii) The *Oil and Gas Development* or *Related Operation* site shall be securely and safely maintained until reclamation, has been completed and re-vegetation permanently established.

o) Geophysical Exploration

- (i) Explosives are prohibited. No geophysical work employing underground explosives shall be authorized or permitted within Township boundaries in connection with this use. Other geophysical exploration systems employing thumper, vibroseis, or other techniques not employing explosives, shall be permitted upon a

separate application and payment of the applicable fee. Nothing herein shall prohibit the use of shaped charges in the well hole for perforation of the casing, as part of the completion of the well.

(ii) The application for a Township permit to conduct geophysical exploration shall include the following:

- (1) date of application
- (2) name and address of proposed permittee
- (3) statement of the proposed commencement and completion date
- (4) map or plan (three copies) outlining the areas to be covered by the geophysical survey
- (5) compliance with all other applicable provisions of this Zoning Ordinance

10) Insurance

1) An *Operator* shall maintain insurance coverage in the following minimum types and amounts:

- a) Commercial liability coverage for bodily injury and property damage coverage in a minimum combined single limit of \$10,000,000.00 per occurrence with an annual general aggregate coverage of \$20,000,000.00. This coverage must include premises, operations, blowout or explosion, products, completed operations, blanket contractual liability, underground property damage, underground reservoir (or resources) damage, broad form property damage, independent contractor's protective liability and personal injury.
- b) Environmental impairment (or seepage and pollution) coverage, in a minimum combined single limit coverage of \$10,000,000.00 per occurrence, shall be included in the comprehensive general liability coverage or maintained as separate coverage.
 - (i) Such coverage shall not exclude damage to the lease site. If environmental impairment (or seepage and pollution) coverage as written on a "claims made basis, the policy must provide that any retroactive date applicable precedes the effective date of the issuance of the permit.
 - (ii) Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, oils and gas, waste material, or other irritants, contaminants or pollutants.

- (iii) A discovery period for such peril shall not be less than ten years after the occurrence.
- c) Automobile liability insurance meeting the following requirements:
 - (i) A minimum combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
 - (ii) Such coverage shall include owned, non-owned, and hired vehicles.
- d) Worker's compensation insurance meeting the following requirements:
 - (i) The minimum statutory requirements.
 - (ii) Employer's liability limits of at least \$1,000,000.00 for each employee, and \$1,000,000.00 for occupational disease, and the insurer shall agree to waive rights of subrogation against the Township, its departments, agents, officers, servants, employees, sponsors and volunteers, the inspector, and each of their respective heirs, personal representatives, successors and assigns, for any work performed for the Township by the *Operator*.
- e) Excess (or umbrella) liability insurance in a minimum limit of \$20,000,000.00 providing excess coverage for each of the perils insured by the preceding liability insurance policies.
- f) Control of Well insurance which meets the following requirements:
 - (i) Minimum limit \$10,000,000.00 per occurrence with a maximum deductible of \$250,000.000 per occurrence.
 - (ii) The policy shall cover the cost of controlling a well that is out of control, *re-drilling* or restoration expenses, and seepage and pollution damage.
 - (iii) Damage to property in the Operator's care, custody and control with a sublimit of \$500,000.00 may be added.
- g) Each policy shall be endorsed to read substantially as follows: "This policy will not be cancelled or non-renewed without 30 days advanced written notice to the owner and the Township of Aleppo, Pennsylvania, except when this policy is being cancelled for non-payment of premium, in which case ten days advance written notice to both such parties is required."
- h) Liability policies shall be written by carriers licensed to do business in the Commonwealth of Pennsylvania and with companies with at least an "A" rating issued by the A.M. best company.
- i) Liability policies shall be named as "additional insured" the Township of Aleppo and the other *indemnified parties* as defined in the Definitions section

of this Ordinance. Waivers of subrogation shall be provided in favor of all *indemnified parties*.

- j) The policy phrase “other insurance” shall not apply to the Township where the Township is an additional insured on the policy and each policy shall be primary and non-contributory.
- k) The operator shall be present to the Township copies of the pertinent portion of the insurance policies evidencing all coverage and endorsements required by this section before the issuance of the Conditional Use approval.
- l) The acceptance by the Township of a policy without the required limits and/or coverage shall not be deemed a waiver of these requirements.
- m) Claims-made policies shall not be accepted except for excess policies and environmental impairment (or seepage and pollution) policies, which may be written on a claims-made basis if extended coverage is provided.
- n) The *Operator* shall require each contractor or subcontractor performing work on the *Development* site or *Related Operation* site to obtain insurance that is appropriate for the services the subcontractor is performing.
- o) The contractor and subcontractor shall provide the insurance coverage at their own expense.
- p) The contractor and subcontractor’s insurance must name the Operator as an additional insured.
 - (i) The contractor and subcontractor shall keep the insurance coverage in effect until the Township approves the abandonment and restoration of the operation site.
 - (ii) Companies approved by the Commonwealth of Pennsylvania with an A.M. Best Rating of “A” or better and acceptable to the Township must issue the subcontractor’s insurance.
 - (iii) The Operator shall provide the Township manager with a copy of the certificates of insurance for each contractor and subcontractor at least 30 days before the contractor or subcontractor begins work.
- q) Upon request, the *Operator* shall provide the Township manager with copies of the subcontractor’s insurance policies and all endorsements at no cost to Township.

11) Financial Security

A financial security provided by the Township’s Subdivision and Land Development Ordinance shall be required as part of the Land Development application for an *Oil and Gas Development* or *Related Operation*.

12) Indemnity

Each Conditional Use application and each Conditional Use Approval shall include the following language:

OPERATOR DOES HEREBY EXPRESSLY AND IRREVOCABLY RELEASE AND DISCHARGE ALL CLAIMS, DEMANDS, ACTIONS, *JUDGMENTS* AND EXECUTIONS OF ANY AND ALL KINDS WHICH IT OR ITS SUCCESSORS OR ASSIGNS EVER HAD OR NOW HAS OR MAY HAVE, OR CLAIMS TO HAVE, AGAINST THE TOWNSHIP OF ALEPPO, PENNSYLVANIA, ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, EMPLOYEES, SPONSORS OR VOLUNTEERS, THE INSPECTOR, AND EACH OF THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS (THE TOWNSHIP OF ALEPPO, PENNSYLVANIA, AND ALL OTHER FOREGOING PARTIES BEING HEREIN REFERRED TO COLLECTIVELY AS THE "INDEMNIFIED PARTIES") CREATED BY OR ARISING OUT OF BODILY INJURIES, KNOWN OR UNKNOWN, OR INJURIES TO PROPERTY, REAL OR PERSONAL, OR IN ANY WAY INCIDENTAL TO OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK PERFORMED BY THE OPERATOR, ITS CONTRACTORS, AND EMPLOYEES UNDER A CONDITIONAL USE APPROVAL. OPERATOR AGREES TO FULLY DEFEND, PROTECT, INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM AND AGAINST EACH AND EVERY CLAIM, DEMAND OR CAUSE OF ACTION AND ANY AND ALL LIABILITY, DAMAGES, OBLIGATIONS, *JUDGMENTS*, LOSSES, FINES, PENALTIES, COSTS, FEES AND EXPENSES INCURRED BY THE INDEMNIFIED PARTIES, INCLUDING ANY NEGLIGENT ACT OR OMISSION, GROSS NEGLIGENCE, INTENTIONAL MISCONDUCT OR ILLEGAL ACT, CAUSED BY OR ARISING OUT OF, INCIDENTAL TO, OR OTHERWISE IN CONNECTION WITH ANY WORK PERFORMED BY OPERATOR. OR ITS CONTRACTORS UNDER A CONDITIONAL USE APPROVAL, INCLUDING WITHOUT LIMITATION, BODILY INJURIES AND DEATH IN CONNECTION THEREWITH WHICH MAY BE MADE OR ASSERTED BY OPERATOR OR OPERATOR'S AGENTS, EMPLOYEES, ASSIGNS OR ANY THIRD PARTIES. OPERATOR AGREES TO FULLY DEFEND, PROTECT, INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM ANY CLAIMS, LIABILITIES OR DAMAGES SUFFERED AS A RESULT OF CLAIMS, DEMANDS, COSTS OR *JUDGMENTS* AGAINST THE INDEMNIFIED PARTIES, CREATED BY OR ARISING OUT OF THE ACTS OR OMISSIONS OF THE TOWNSHIP OF ALEPPO OR ANY OF THE OTHER INDEMNIFIED PARTIES, OCCURRING ON THE OIL AND GAS DEVELOPMENT SITE OR RELATED OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND APPROVING THE DEVELOPMENT OR RELATED OPERATION, INCLUDING, BUT NOT LIMITED TO CLAIMS, LIABILITIES AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF ANY OF THE INDEMNIFIED PARTIES, INCLUDING THE SOLE NEGLIGENCE OF ANY INDEMNIFIED PARTY, OCCURRING IN THE COURSE AND SCOPE OF APPROVING OR INSPECTING THE OIL AND GAS DEVELOPMENT SITE OR RELATED OPERATION SITE, AND OTHER AREAS INVOLVED IN OPERATOR'S ACTIVITIES. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE TOWNSHIP OF ALEPPO, PENNSYLVANIA, AND THE OTHER INDEMNIFIED PARTIES FROM THE CONSEQUENCES OF THE NEGLIGENT ACT OR OMISSION OF ANY OF THE INDEMNIFIED PARTIES, WHETHER THAT NEGLIGENCE IS THE SOLE OR A CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH AND/OR DAMAGE. THE FOREGOING IS NOT INTENDED TO REQUIRE THE OPERATOR TO INDEMNIFY THE INDEMNIFIED PARTIES FROM THE

INDEMNIFIED PARTIES' GROSS NEGLIGENCE OR INTENTIONAL HARM, IRRESPECTIVE OF WHETHER THAT GROSS NEGLIGENCE OR INTENTIONAL HARM IS THE SOLE OR A CONTRIBUTING CAUSE OF THE RESULTANT INJURY.

Disclaimer

Any ordinance, chapter, section, subsection, paragraph, sentence or phrase of any ordinance conflicting with the provisions of this Ordinance Amendment shall hereby be repealed to the extent of such conflict.

If any sentence, clause, section, or part of this Ordinance Amendment 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 Amendment. It is hereby declared as the intent of the Township of Aleppo that this Ordinance Amendment would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

Effective


This Ordinance Amendment shall be in full force and effect from and after its passage and approval.

ORDAINED AND ENACTED into law this 15th day of June, 2020.

ATTEST:

TOWNSHIP OF ALEPPO


Secretary

By: 
President, Board of Commissioners

Approved this 15 day of June, 2020.