

**TOWNSHIP OF PENN
RESOLUTION NO. 33/2015**

**A RESOLUTION OF THE TOWNSHIP OF PENN,
WESTMORELAND COUNTY, PENNSYLVANIA,
REVISING AND AMENDING RESOLUTION NO. 85/2014
OF THE TOWNSHIP OF PENN; SAID RESOLUTION
PROVIDES AMENDMENTS TO THE PROPOSED ZONING
ORDINANCE OF THE TOWNSHIP OF PENN; AND, PROVIDES
INTERIM PROCEDURES FOR APPLICATIONS SUBMITTED
FOR ALL TYPES OF ZONING APPROVALS IN THE INTERIM
PERIOD.**

WHEREAS, the Township of Penn has embarked upon a program designed to amend, revise, update, codify and recodify the Zoning Ordinance and the Zoning Map of the Township of Penn, Penn Township Zoning Ordinance Number 659 of, November 30, 1995, as amended; and

WHEREAS, the Township of Penn is desirous of notifying owners of property developers and other persons seeking zoning approval of its intention to amend, revise, update, codify and recodify the Zoning Ordinance and the Zoning Map of the Township of Penn; and

WHEREAS, no specific date has been set for the adoption of the amended, revised, updated, codified and recodified Zoning Ordinance and the Zoning Map of the Township of Penn; and

WHEREAS, the Township of Penn adopted Resolution No. 85/2014 on the 20th day of October, 2014; and

WHEREAS, pursuant to said Resolution, the proposed amended, revised, updated, codified and recodified Zoning Ordinance and the Zoning Map of the Township of Penn was declared pending; and

WHEREAS, after review of the proposed pending Ordinance, the Board of Commissioners of the Township of Penn find it appropriate to revise and replace certain provisions of the proposed Penn Township Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED and it is hereby resolved by the Board of Commissioners of the Township of Penn as follows:

SECTION I: The following provisions of the proposed Zoning Ordinance of the Township of Penn are hereby amended and/or replaced as follows:

A. Section 190-202 Definitions. is hereby amended to add the following definition:

OCCUPIED STRUCTURE. shall mean a structure with walls and a roof within which individuals live, customarily work, and such other “vulnerable structures” which would include schools, hospitals, clinics, daycare centers and intermediate care facilities.

B. Section 190-202 Definitions, PROTECTED STRUCTURE is hereby amended to read as follows:

PROTECTED STRUCTURE - Any occupied structure, measured horizontally on the ground, within six-hundred (600’) feet of the vertical wellbore of an unconventional oil or natural gas well or, in the case of a natural gas processing facility, within twelve-hundred (1,200’) feet thereof, also measured horizontally on the ground. The term shall not include any structure that is not occupied by individuals; and, such as facilities of the storage for construction materials or equipment. The term shall not include any structure whose owner has signed a waiver relieving the operator from the implementation of the measures established herein or other applicable provisions of any current Penn Township Ordinance. In addition, a waiver shall not be required from the owners of any protected structure which may be situate within the setback area in those situations where such owner has a valid and subsisting oil and gas lease with the party proposing the oil and/or gas well.

C. Section 190-202 Definitions. is hereby amended to add the following

definition:

WASTEWATER (Unconventional Well) – the post-drilling liquids or fluids used in the fracking or extraction process.

D. Section 190-407 MEO – Mineral Extraction Overlay District, specifically

Section E is hereby deleted and replaced with the following:

SPECIAL EXCEPTION.

(1) Oil and Natural Gas Drilling (Unconventional)

E. Section 190-407 (F) Dimensional Standards, (5) Design Standards (d), is

hereby amended to read as follows:

(d) Development Standards: In addition to the applicable performance standards in §190-635, any permitted principal, conditional use, special exception or accessory use shall be subject to the following:

[1] All permitted, conditional use, special exception and accessory uses in the MEO Mineral Extraction Overlay District shall comply with the provisions of §190-641 of this Ordinance, where applicable.

[2] All permitted, conditional use, special exception and accessory uses in the MEO Mineral Extraction Overlay District shall comply with the provisions of Chapter 156, Subdivision and Land Development Ordinance, Article III, §190-18 and §156-23, where such provisions have not been superseded by the provisions of §190-641.

[3] Wastewater – Copies of all required Pennsylvania DEP permits or permits from the Municipal Authority with jurisdiction agreeing to accept any effluent produced, shall be provided:

(i) In no case shall wastewater be dumped or permitted to flow or seep into a stream or drainage way.

(ii) Wastewater that cannot be treated on-site shall not be permitted to accumulate and shall be disposed of on a regular basis as required.

[4] Hazardous or Toxic Waste — Hazardous or toxic waste shall not be permitted to accumulate on any property, and disposal shall be in compliance with applicable Commonwealth of Pennsylvania

hazardous or toxic waste handling regulations.

- [5] Property Maintenance — All areas of any property upon which mineral extraction activities are being conducted shall be maintained free from the exterior accumulation of material and machine parts.
- [6] All drilling and production operations, including but not limited to derricks, vacuum pumps, compressors, storage tanks, fresh water impoundment areas, vehicle parking areas, structures, machinery, ponds and pits, and ancillary equipment shall be located and set back not less than six-hundred (600') feet from any protected structure and not less than two-hundred (200') feet from any adjoining property line. Wastewater impoundment areas shall be prohibited.

This provision shall not apply to any structure whose owner has signed a waiver relieving the operator from the implementation of the measures established herein or other applicable provisions of any current Penn Township Ordinance. Further, a waiver shall not be required from the owners of any protected structure which may be situate within the setback area in those situations where such owner has a valid and subsisting oil and gas lease with the party proposing the oil and/or gas well.

- [7] Permanent structures of the oil and gas developments and facilities (both permitted principal and accessory) shall comply with the height regulations of the zoning district in which they are located. This does not include temporary structures such as derricks or rigs used in the drilling process. However, in the event temporary structures exceed maximum height regulations in the Airport Overlay Zone, permission from the FAA is required for the construction, use and operation of the same.
- [8] Air Quality — Air-contaminant emissions shall comply with all municipal, county, Commonwealth and federal regulations, and all applicable regulations for smoke, ash, dust, fumes, gases, odors and vapors.
- [9] Storage of Equipment — It shall be illegal and a violation of this Ordinance to park or store any vehicle or item of machinery on any street, right-of-way or in any driveway or alley which (a) constitutes a fire hazard, or (b) creates an obstruction to or interferes with fighting or controlling fires, except that equipment which is necessary for the maintenance of the development site or for the gathering or transporting of hydrocarbon substances may remain on the site.

F. Section 190-503 Conditional Uses (I) Oil and Gas, Conditional Use in

MEO District, subject to the following:

... is hereby deleted.

G. Section 190-641 Oil and Gas Operations (Unconventional Gas Wells),

specifically subsection D is hereby amended to read as follows:

...

- D. Where such oil and gas operations are classified either as a conditional use or special exception in certain zoning districts, the following review procedure and submittal information shall be provided and development standards met:
- (1) An application for Conditional Use approval for an Oil and Gas Operation which involves an oil or natural gas well, compressor station or processing plant shall be filed with the Director of Community Development along with the required administrative fee and such application shall include information as outlined and processed as follows:
 - (a) Identify and describe the property, its location and the present use.
 - (b) Reasonably describe present improvements and any intended additions and changes.
 - (c) 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.
 - (d) Upon receipt of such application for Conditional Use, the Director of Community Development 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 and §190-906 of this Chapter.
 - (e) The Township Board of Commissioners 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 and §190-906 of this Chapter.
 - (f) The Township Board of Commissioners 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 as determined by Pennsylvania courts.

(g) The Township Staff shall report the action of the Township Board of Commissioners as per the provisions of the Pennsylvania Municipalities Planning Code, Section 913.2.

(1.1) An application for Special Exception approval for an Oil and Gas Operation which involves an oil or natural gas well, compressor station or processing plant shall be filed with the Director of Community Development along with the required administrative fee and such application shall include information as outlined and processed as follows:

- (a) Identify and describe the property, its location and the present use.
- (b) Reasonably describe present improvements and any intended additions and changes.
- (c) Disclose the Special Exception 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.
- (d) Upon receipt of such application for Special Exception, the Director of Community Development shall forthwith refer the same to the Penn Township Zoning Hearing Board. The application for Special Exception shall be processed as per the provisions of the Pennsylvania Municipalities Planning Code, Section 912.1 and §190-811 of this Chapter.

H. Section 190-641 Oil and Gas Operations (Unconventional Gas Wells), specifically subsection D(2)(7) is hereby amended to read as follows:

7. The following activities shall be permitted in the MEO Mineral Extraction Overlay District following receipt of an approved zoning permit or the granting of conditional use or special exception approval where applicable:

- (a) Oil and gas operations, including but not limited to oil and natural gas wells, gas and water pipelines above the surface and vertical and horizontal wellbores which extend

into the DIO Development Infill Overlay District below the surface;

(b) Well and pipe location assessment operations, including seismic operations.

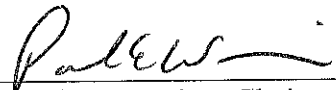
I. Section 190-641(D) is amended to add the following:

Section 190-641(D) ... (9) which shall read as follows:

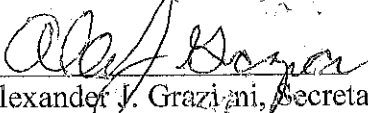
(9) The applicant shall demonstrate that the drill site operations will not violate the citizens of Penn Township's right to clean air and pure water as set forth in Art. 1 Sec. 27 of the Pennsylvania Constitution (The Environmental Rights Amendment). The applicant shall have the burden to demonstrate that its operations will not affect the health, safety or welfare of the citizens of Penn Township or any other potentially affected land owner. The application submitted shall include reports from qualified Environmental individuals attesting that the proposed location will not negatively impact the Township residents' Environmental Rights; and, will include air modelling and hydrogeological studies as potential pathways that a spill or release of fluid may follow.

RESOLVED this 19th day of January, 2015.

TOWNSHIP OF PENN

By: 
Paul E. Wersing, Chairman

ATTEST: (SEAL)


Alexander J. Grazioplene, Secretary