

ORDINANCE NO. 194

NEW SEWICKLEY TOWNSHIP, BEAVER COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING ORDINANCE NO. 162, ZONING (9-17-02) 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.

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 New Sewickley 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 3.1, Meaning of Words, 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 VI, A-1 Agricultural District, Section 6.1, Uses Permitted by Right, the following uses are hereby inserted:

Oil and Gas Operations (excluding compressor stations and processing plants). Subject to applicable requirements in Section 14.18

Impoundment Areas. Subject to applicable requirements in Section 14.18

SECTION 3. In Article VI, A-1 Agricultural District, Section 6.2, Conditional Use Provisions, the following use is hereby listed and a new Subsection 16 inserted to read as

follows:

Compressor Station pursuant to standards and criteria specified in Subsection 16 herein.

16. Compressor Station:

- a. Minimum lot area shall be twenty (20) acres.
- b. Maximum noise level at full operation shall be 60 dba measured at the property boundary line.
- c. A minimum three (3) linear mile separation distance between compressor stations 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.
- d. Access roads to the facility shall be designed at a maximum ten percent (10%) grade and maintained in a stable, mud-free condition.
- e. The operator shall comply with all applicable provisions of Section 14.18 of this Ordinance.

SECTION 4. In Article VI, A-1 Agricultural District, Section 6.4, Lot Area and Dimensional Requirements, the table is hereby revised and supplemented to read as follows:

Permitted Uses	Min Lot Area	Min Lot Width	Min Front Setback from ROW	Min Side Yard	Min Rear Yard	Max Building Height	Max Lot Coverage
11. Oil and Gas Operations (excluding compressor stations and processing plants).	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					
12. Impoundment Areas	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					
Conditional Uses	Min Lot Area	Min Lot Width	Min Front Setback from ROW	Min Side Yard	Min Rear Yard	Max Building Height	Max Lot Coverage

16. Compressor Station*	20 ac	n/a	n/a**	n/a**	n/a**	45	50%
<p>* See Also Article V of the New Sewickley Township Subdivision and Land Development Ordinance.</p> <p>** As per the provisions of Commonwealth of Pennsylvania Act 13, or as otherwise provided in Section 14.18</p>							

SECTION 5. In Article VII, R-1 Suburban Residential District, Section 7.1, Conditional Use Provisions, the following uses are hereby inserted as Subsection 4 and 5:

4. Oil and Gas Operations (excluding compressor stations and processing plants). Subject to applicable requirements in Section 14.18

5. Impoundment Areas. Subject to applicable requirements in Section 14.18

SECTION 6. In Article VII, R-1 Suburban Residential District, Section 7.3, Lot, Area and Dimensional Requirements, the table is hereby revised to read as follows:

Conditional Uses	Min Lot Area	Min Lot Width	Min Front Setback from ROW	Min Side Yard	Min Rear Yard	Max Building Height	Max Lot Coverage
1. Hamlet	Subject to requirements in Section 6-2-12						
2. Multi-Family Dwelling	Subject to requirements in Section 8-1-12						
3. Planned Unit Development	Subject to requirements in Section 6-2-11						
4. Oil and Gas Operations (excluding compressor stations and processing plants).	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					

5. Impoundment Areas	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18
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SECTION 7. In Article VIII, R-2 General Residential District, Section 8.1, Conditional Use Provisions, the following uses are hereby inserted as Subsections 5 and 6:

- 5. Oil and Gas Operations (excluding compressor stations and processing plants). Subject to applicable requirements in Section 14.18
- 6. Impoundment Areas. Subject to applicable requirements in Section 14.18

SECTION 8. In Article VIII, R-2 General Residential District, Section 8.3, Lot, Area and Dimensional Requirements, the table is hereby revised and supplemented to read as follows:

Conditional Uses	Min Lot Area	Min Lot Width	Min Front Setback from ROW	Min Side Yard	Min Rear Yard	Max Building Height	Max Lot Coverage
1. Group Residential	-	-	-	-	-	-	-
2. Multi-Family Dwelling	Subject to requirements in Section 8.1-2						
3. Hamlet	Subject to requirements in Section 6.2-12						
4. Mobile Home Park	Subject to requirements New Sewickley Township Subdivision and Land Development Ordinance, Article VIII						
5. Oil and Gas Operations(excluding compressor stations and processing plants).	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					
6. Impoundment Areas	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise					

		provided in Section 14.18
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SECTION 9. In Article IX, C-1 Local Commercial District, Section 9.0, Statement of Purpose and Use Summary, the following additional text is hereby added under C-1 Conditional Use:

C-1 Conditional Use

Oil and Gas Operations (excluding compressor stations and processing plants). Subject to applicable requirements in Section 14.18

Impoundment Areas. Subject to applicable requirements in Section 14.18

SECTION 10. In Article IX, C-1 Local Commercial District, Section 9.3, Lot, Area and Dimensional Requirements, the table is hereby revised and supplemented to read as follows:

Conditional Uses	Min Lot Area	Min Lot Width	Min Front Setback from ROW	Min Side Yard	Min Rear Yard	Max Building Height	Max Lot Coverage
1. Automotive Sales, Service	45,000	120	40	25	35	40	na
2. Coordinated Commerce	Subject to the requirements in Section 9.1-2						
3. Planned Unit Commerce	Subject to the requirements in Section 9.1-3						
4. Oil and Gas Operations (excluding compressor stations and processing plants).	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					
5. Impoundment Areas	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					

SECTION 11. In Article X, C-2 Planned Commercial District, Section 10.2, Conditional Uses, the following uses are hereby inserted as Subsections 2 and 3:

2. Oil and Gas Operations (excluding compressor stations and processing plants). Subject to applicable requirements in Section 14.18
3. Impoundment Areas. Subject to applicable requirements in Section 14.18

SECTION 12. In Article X, C-2 Planned Commercial District, Section 10.3, Lot, Area and Dimensional Requirements, the table is hereby revised and supplemented to read as follows:

Conditional Uses	Min Lot Area	Min Lot Width	Min Front Setback from ROW	Min Side Yard	Min Rear Yard	Max Building Height	Max Lot Coverage
1. Planned Unit Commerce	Subject to requirements in Section 10.2						
2. Oil and Gas Operations (excluding compressor stations and processing plants).	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					
3. Impoundment Areas	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					

SECTION 13. In Article XI, I Industrial District, Section 11.0, Statement of Purpose and Use Summary, the following uses are hereby inserted under I Use Permitted by right:

I Permitted Use

Oil and Gas Operations. Subject to applicable requirements in Section 14.18.

Impoundment Areas. Subject to applicable requirements in Section 14.18.

Compressor Stations. Subject to applicable requirements in Section 14.18.

Processing Plants. Subject to applicable requirements in Section 14.18.

SECTION 14. In Article XI, I Industrial District, Section 11.3, Lot, Area and Dimensional Requirements, the table referencing permitted uses is hereby revised and supplemented to read as follows:

Permitted Uses	Min Lot Area	Min Lot Width	Min Front Setback from ROW	Min Side Yard	Min Rear Yard	Max Building Height	Max Lot Coverage
1. Business Office	15,000	75	50	20	20	40	60%
2. Municipal Facility	45,000	75	50	20	20	40	n/a
3. Oil and Gas Operations	1 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					
4. Impoundment Areas	n/a	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					
5. Compressor Stations*	3 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					
6. Processing Plants*	5 ac	As per the provisions of Commonwealth of Pennsylvania Act 13 of February 2012 or as otherwise provided in Section 14.18					
* See also Article V of the New Sewickley Township Subdivision and Land Development Ordinance							

SECTION 15. In Article XIV, Supplemental Regulations, Section 14.16, Site Plan Review – Commercial and Industrial Uses, a new Subsection 4 is hereby added to read as follows:

4. On all recorded parcels within the municipal boundaries of New Sewickley Township involving the development and operation of a natural gas compressor station or processing plant, an application for land development approval, consistent with the provisions of the Article V of the New Sewickley Township Subdivision and Land Development Ordinance shall be submitted which shall also comply with the applicable standards outlined in Section 14.18, or as superseded by the provisions of Commonwealth Act 13 of February 2012.

SECTION 16. In Article XIV, Supplemental Regulation, a new Section 14.18 titled Oil and Gas Operations is hereby added to read as follows:

Section 14.18 Oil and Gas Operations

- A. Oil and Gas Operations listed as conditional uses in certain zoning districts, which include the construction of compressor stations and gas processing plants, shall be reviewed by the New Sewickley Township Planning Commission and approved by the Board of Supervisors prior to the issuance of any required Township permits. All proposals for Oil and Gas Operations, whether listed as permitted or conditional uses, shall include the following submittal information in addition to the requirements for land developments specified in Article V of the New Sewickley Township Subdivision and Land Development Ordinance where such operation involves the development and operation of a natural gas compressor station or processing plant:
1. 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.
 2. 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.
 3. The applicant shall provide a copy of any access security measures approved by the Pennsylvania Department of Environmental Protection during the gas drilling operation phase.
 4. Any approved landscaping plan shall be visually consistent with the provisions of Subsection 3, Section 14.16.
 5. At the time an application for a Township Zoning Permit is submitted, unless otherwise specified, a copy of all Pennsylvania Department of Environmental Protection required information regarding the rehabilitation-reclamation of the site shall be attached.
 6. Notification requirements of the Pennsylvania Department of Environmental Protection shall be satisfied prior to commencement of those activities specified in this Section.
- B. Setbacks from recorded property lines shall be in conformance with the provisions of Commonwealth of Pennsylvania Commonwealth Act 13 of February 2012 where applicable, unless such minimum setback is waived by the affected property owner.
- C. Any operator utilizing New Sewickley 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 mud-free for all vehicular traffic at all times, in addition to the following:

1. Where a New Sewickley 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 mud-free.
 2. When the operator's maintenance plan for accessing Township owned and maintained roads for an 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, subbase 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.
- D. 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:
1. 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 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 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 9.13.2.
 - e. 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.
 - f. 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.

- g. The Township Staff shall report the action of the Township Board of Supervisors as per the provisions of the Pennsylvania Municipalities Planning Code, Section 9.13.2.
- 2. For any Oil and Gas Operation, the Operator shall;
 - a. Install temporary safety fencing, at least eight (8) feet in height or as specified in Section 14.9, Storage and Screening, around impoundment areas. Where applicable Federal or Commonwealth regulations require additional or alternative fencing, those standards shall dictate.
 - b. Install warning signs providing notice of the potential dangers at the well site.
 - c. Provide security personnel 24/7 at all times when a drilling rig or hydraulic fracturing equipment is on the well site.
 - d. 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.
 - e. 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.
 - f. All reportable spills and accidents are to be reported to the Township Administrative Office in a timely manner.
 - g. 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
- 3. 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 in a well after its completion in an effort to secure production where there has been none, restore production that has ceased, or increase production.

4. A noise level not to exceed 60 dBA at the nearest property line or the applicable standard imposed by Commonwealth or Federal statutes shall be the maximum permitted at any compressor station or processing plant site. A noise level not to exceed 75 dba at the property line shall be maintained at the well drilling and impoundment area sites.
5. 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.
6. 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.
7. The following activities shall be permitted in every zoning district without having to obtain a zoning permit or conditional use approval:
 - a. 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
 - b. Well and pipe location assessment operations, including seismic operations.
8. 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.

SECTION 17. 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 16.13, Penalties, of this Ordinance.

SECTION 18. Repealer: All ordinances, code sections or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

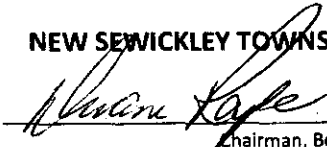
SECTION 19. Severability: Should any sentence, section, clause, part or provisions of this Ordinance amendment be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION 20. Effective Date: This Ordinance amendment shall take effect five (5) days after enactment.

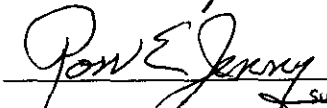
Duly presented and adopted at a regular meeting of the New Sewickley Township Board of Supervisors, Beaver County, Pennsylvania, held on the 27 day of Dec, 2012

ATTEST:

NEW SEWICKLEY TOWNSHIP BOARD OF SUPERVISORS



Chairman, Board of Supervisors



Supervisor




Supervisor



Supervisor



Supervisor



Township Secretary (Manager)