

ORDINANCE NO. 27- 04

CONNOQUENESSING BOROUGH, BUTLER COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING ORDINANCE NO. 27, ZONING, ESTABLISHING STANDARDS FOR OIL AND GAS OPERATIONS RELATING TO LAND USE PROVISIONS, ADDING DEFINITIONS AND TERMS, SPECIFYING SUBMITTAL MATERIAL AND PROCEDURES FOR CONDITIONAL USE APPROVAL, OUTLINING REVIEW AND APPROVAL CRITERIA, ESTABLISHING HEALTH, SAFETY AND WELFARE STANDARDS, LIMITING IMPACTS TO ADJACENT PROPERTIES AND SPECIFYING ENFORCEMENT REMEDIES.

WHEREAS, to promote, protect and facilitate the public health, safety, morals, and the general welfare, as well as the preservation of the natural, scenic and historic values in the environment and the preservation of forests, wetlands, aquifers and floodplains the Connoquenessing Borough Council enacted Ordinance No. 27, Zoning; and

WHEREAS, Oil and Gas Operations, including gas exploration, drilling and extraction operations involve activities that may impact the Borough's environment, infrastructure and related public health, safety, and welfare; and

WHEREAS, to assure Oil and Gas Operations are undertaken in a manner that minimizes the impact on the Borough's environment and infrastructure and that is consistent with the zoning objectives set forth above the Borough has resolved to enact the following:

NOW THEREFORE, be it ORDAINED and ENACTED by the Borough Council of the Borough of Connoquenessing, Butler County, Pennsylvania, that the Borough Code of Ordinances, Chapter 27, Zoning is hereby amended to provide as follows:

SECTION 1. In Part 4, Definitions, the following definitions are hereby inserted in alphabetical order.

BUILDING – In relation to Oil and Gas Operations only, it is defined as an occupied structure with walls and a roof within which individuals live or customarily work.

COMPRESSOR STATION – One or more enclosed insulated buildings, 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.

GAS – Any of the following:

(1) A fluid, combustible or noncombustible, which is produced in a natural state from the earth and maintains a gaseous or rarified state at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA.

(2) Any manufactured gas, by-product gas or mixture of gases or natural gas liquids.

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 – Hydrocarbons in liquid form at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA, also referred to as petroleum.

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 associated 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. Oil and Gas Operations as herein defined, except for Compressor Stations and Natural Gas Processing Plants, shall be conditionally permitted in the Agricultural Zone District only subject to the requirements set forth in Part 12, 27-1209.

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.

REDUCED EMISSION COMPLETION (GREEN COMPLETION) – Techniques or methods that minimize the release of natural gas and vapors to the environment when a well is being flowed during the completion or re-completion phase.

WATER MANAGEMENT PLAN – A plan associated with drilling or completing a well in an unconventional formation that demonstrates that the withdrawal and use of water sources protects those sources as required by law and protects public health, safety and welfare.

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

SECTION 2. In Part 8, Regulations Within Each Zoning District, section 802(3) Conditional Uses (in the Agricultural Zone District) the following conditional use is added as 802(3)(G):

G. Oil and Gas Operations (excluding Compressor Stations and Natural Gas Processing Plants). See Part 12.

SECTION 3. In Part 12, Conditional and Special Exception Uses, the following section 1209 is added:

27-1209. Oil and Gas Operations

A. The following requirements shall apply to all Oil and Gas Operations conditionally permitted in the Agricultural Zone District (A).

1. An application for Conditional Use approval for an Oil and Gas Operation shall be filed with the Borough Office along with the required administrative fee and such application shall include the following information:
 - a. A narrative describing an overview of the project including the number of acres to be involved, the number of wells to be drilled, the location of all impoundments and structures and a description of equipment to be used, to the extent known.
 - b. Reasonably describe present improvements at the site and any intended additions and changes.
 - c. Show how the property, as it may be improved, meets the standards and criteria required for approval.
 - d. Contact information of the individual or individuals responsible for the operation and activities at the Oil and Gas Operation shall be provided to the Borough and all Emergency Responders. Such information shall include a phone number where such individual or individuals can be contacted twenty-four hours per day, three-hundred sixty-five days a

year. Annually, or upon any change of relevant circumstances, the applicant shall update such information and provide it to the Borough and all Emergency Responders.

- e. A location map of the Oil and Gas Operation showing the approximate location of drilling rigs, equipment and structures and all permanent improvements to the site and any post construction surface disturbance in relation to natural and other surroundings. Included in this map shall be an area within the development site for the location and parking of vehicles and equipment used in the development and use of the site. Such location shall be configured to allow the normal flow of traffic on public streets to be undisturbed.
- f. A narrative and map describing the manner and routes for the transportation and delivery of equipment, machinery, water, chemicals and other materials used in the Oil and Gas Operation.
- g. Certification satisfactory to the Borough that, prior to the commencement of Oil and Gas Operations, the applicant shall have accepted and complied with any applicable bonding and permitting requirements; and shall have entered into a Borough roadway maintenance and repair agreement, in a form acceptable to the Borough solicitor, regarding the maintenance and repair of affected Borough streets.
- h. A description of, and commitment to maintain, safeguards that shall be taken by the applicant to ensure that Borough streets utilized by the applicant shall remain free of dirt, mud and debris resulting from site development activities; and the applicant's assurance that such streets will be promptly swept or cleaned of dirt, mud and debris occurring as a result of applicant's usage.
- i. Certification that a copy of the operation's Preparedness, Prevention and Contingency Plan has been provided to the Borough and all Emergency Responders. The applicant shall maintain at the well site and on file with the Borough a current list and the Material Safety Data Sheets (MSDS) for all chemicals used in the applicant's operations. The emergency response plan submitted shall address 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
- j. Certification that the applicant, upon changes occurring to the operation's Preparedness, Prevention and Contingency Plan, will provide to the Borough and all Emergency Responders the dated revised copy of the Preparedness, Prevention and Contingency Plan while drilling activities are taking place at the Oil and Gas Operation.
- k. Assurance that, at least 30 days prior to drilling, the applicant shall provide an appropriate site orientation and training course of the Preparedness, Prevention and Contingency Plan for all Emergency Responders. The

- shall not exceed the actual time period of drilling or re-drilling of an oil or gas well and in no case may it exceed 6 months.
- d. Drilling rigs shall be located a minimum setback distance of 1.5 times their height from any property line, public or private street, and building not related to the drilling operations on either the same lot or an adjacent lot. Exemption from the standards established in this subsection may be granted by the Borough upon a showing by the applicant that it is not feasible to meet the setback requirements and that adequate safeguards have or will be provided to justify the exemption.
 - e. 24-hour on-site supervision and security shall be provided by the applicant during the initial drilling, or re-drilling operations.
 - f. Upon completion of drilling or re-drilling security fencing consisting of a permanent chain link fence at least 6 feet in height equipped with lockable gates at every access point and having openings no less than 12 feet wide shall be promptly installed at the Oil and Gas Operation to secure well heads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and structures on the Well Site. Warning signs shall be placed on the fencing surrounding the Oil and Gas Operations providing notice of the potential dangers and the contact information in case of an emergency.
 - g. Emergency Responders shall be given means to access Oil and Gas Operations in case of emergency.
 - h. In the development of Oil and Gas Operations the natural surroundings should be considered and attempts made to preserve existing trees and other native vegetation.
 - i. Effective sound mitigation devices shall be installed to permanent facilities to address sound levels that would otherwise exceed the noise level standards when located near a residence, public building, school, medical, emergency or other public facility.
 - j. In the case of complaints received by the Borough, they shall be addressed by the applicant within 24 hours following receipt of notification. The applicant and an authorized Borough representative shall mutually agree upon a third party monitor who shall continuously monitor for a period of forty-eight hours at the complainant's property line. The applicant shall pay all costs associated with the monitor and the monitor shall report the findings to the applicant and to the Borough and shall mitigate the problem to the allowable level if the noise level exceeds the allowable rate.
 - k. The applicant shall install temporary safety fencing, at least eight (8) feet in height around impoundment areas. Where applicable Federal or Commonwealth regulations require additional or alternative fencing, those standards shall dictate.
 - l. All reportable spills and accidents are to be reported to the Borough Office within 24 hours of the spill or accident.
 - m. 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 on a well after its completion in an effort to secure production where there has been none, restore production that has ceased, or increase production.

- n. A noise level not to exceed 60 dba at the nearest property line shall be maintained at the well drilling and impoundment area sites.
 - o. 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 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. In no event shall the light at the property lines register higher than one foot-candle per square inch.
 - p. The applicant shall comply with all of the Environmental Protection Agency's source performance standards and national emission standards for hazardous air pollutants, including volatile organic compounds by use of completion combustion devices ("green completions") effective immediately upon enactment of this ordinance.
 - q. The applicant, owner or operator shall submit to the Borough a source report identifying and quantifying actual air contaminant emissions from any air contamination source. A violation of the emission standards of the Department of Environmental Protection shall also be a violation of this ordinance and shall be subject to the penalties hereafter set forth.
 - r. No hydraulic fracturing wastewater fluids shall be stored at the site of the Oil and Gas Operations. The wastewater fluids must be transported outside of the Borough for disposal in accordance with all relevant laws and regulations.
 - s. When the operator's maintenance plan for accessing Borough owned and maintained roads for Oil and Gas Operations is considered deficient by the Borough 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 Borough Council with input from the Borough Engineer.
 - t. The Oil and Gas Operations shall not include Compressor Stations or Natural Gas Processing Plants within the Borough.
 - u. The applicant, owner or operator shall permit access to the site by the Borough, Borough representative or engineer.
4. Oil and Gas Operations taking place below the surface of the earth, including but not limited to gas and water pipelines and horizontal wellbores shall be permitted in every zoning district without having to obtain a zoning permit or conditional use approval.

5. The Performance Standards (Environmental) found at 27-1005 are incorporated herein. In the case of any inconsistency between 27-1005 and this Amendment the Amendment shall control.
6. Borough Council may attach such additional terms and conditions as it deems necessary in the circumstances.

SECTION 4. PENALTIES.

The Applicant or any person performing work at his direction who violates or permits a violation of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough before a Magisterial District Judge, pay a fine of not more than \$600.00, plus all court costs, including reasonable attorney's fees, engineering fees, expert fees and court costs incurred by the Borough in the enforcement of this ordinance. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Borough are hereby authorized to issue a cease and desist notice and/or to seek equitable relief, including injunction, to enforce compliance herewith. No Bond will be required if injunctive relief is sought by the Borough. In the alternative, the Borough reserves the right to enforce the provisions of this ordinance by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. In such cases, borough council may prescribe fines not to exceed \$1,000 per violation.

SECTION 5. REPEALER.

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

SECTION 6. SEVERABILITY.

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

Duly presented and adopted at a regular meeting of the Council of the Borough of Connoquenessing, Butler County, Pennsylvania, held on the 4th day of March, 2014.

ATTEST:

BOROUGH OF CONNOQUEENESSING

Robin J. [Signature]

BY: *Lloyd L. Leslie*
Lloyd Leslie, Council President

Examined and approved by me this 6 day of May, 2014.

Harold Rader, Mayor

