

OFFICIAL

MUNICIPALITY OF MURRYSVILLE, WESTMORELAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 930-15

AN ORDINANCE OF THE MUNICIPALITY OF MURRYSVILLE REPEALING AND REPLACING SECTION 220-31(CC) OF THE ZONING ORDINANCE AND ADDING NEW USES TO SECTION 220-16, THE TABLE OF NON-RESIDENTIAL LAND PRINCIPAL LAND USES

WHEREAS, The Municipality of Murrysville has the duty and obligation to enact ordinances to protect the health and safety of its residents; and

WHEREAS, the Pennsylvania Municipalities Planning Code, Section 601, grants authority to The Municipality of Murrysville to enact Zoning Ordinances that protect and promote the health, safety and the general welfare of its residents; and,

WHEREAS, the Pennsylvania Municipalities Planning Code, Section 603 (i), requires municipalities with a zoning ordinance to provide for reasonable development of Mineral Resources; and,

WHEREAS, The Municipality of Murrysville believes the activity associated with Unconventional Oil and Gas Development without proper regulation may pose hazards to the health, safety and general welfare of the residents of the Municipality; and,

WHEREAS, The Council of the Municipality of Murrysville on October 5, 2011 adopted Ordinance 833-11, establishing regulations for Unconventional Oil and Gas Drilling, Compressor Stations and Processing Plants, which were incorporated into its zoning ordinance as Section 220-31(CC), and

WHEREAS, on February 14, 2012, the Pennsylvania Legislature adopted, Act 13 of 2012, which established regulations for Oil and Gas Development operations, and severely limited the ability of Pennsylvania municipalities to utilize its zoning powers to regulate such activities in a manner consistent with their Comprehensive Plans; and

WHEREAS, Act 13 was challenged by Robinson Township, Washington County, and others and certain portions of Act 13 were invalidated; and

WHEREAS, Appeals were filed in the Pennsylvania Supreme Court, which by decision dated on December 19, 2013, the Commonwealth ruled among other things that Pennsylvania municipalities have the right to utilize their zoning powers to regulate oil and gas development operations consistent with their Comprehensive Plans, and in a plurality decision, held that Act 13 violated Article I, Section 27 of the Environmental Rights Amendment of the Pennsylvania Constitution; and

WHEREAS, the Municipality of Murrysville Council reconvened its Marcellus Shale Task Force on April 2, 2014 for the purpose of reviewing the Supreme Court decision and to provide options to Council on improving the provisions of Section 220-31(CC) of the Zoning Ordinance and a Task Force Report was formally presented to Municipal Council on June 18, 2015; and

WHEREAS, the Task Force Report explored and analyzed many aspects of this type of development and it specifically addressed, including:

(i) Various land use options in order to determine appropriate locations for unconventional oil and gas drilling sites in the Municipality that would be consistent with its 2015 Comprehensive Plan, and reasonably regulate the impact on the residents of the Municipality of Murrysville; (ii) the use of geospatial analysis to mitigate potential impacts to sensitive land uses; (iii) performance standards relating to oil and gas development; (iv) requirements to provide for the reasonable development of all land uses under Act 247; and (v) methods to protect the public health, safety and welfare as required under Article I, Section 27 of the Pennsylvania Constitution; and

WHEREAS, this proposed amendment maintains the existing zoning map that includes the Oil and Gas Recovery Overlay District established by the enactment of Ordinance 833-11; and

WHEREAS, this overlay district provides for the most appropriate areas for oil and gas drilling within the Municipality, based on the historic agricultural and rural resource recovery nature of the Rural Residential (R-R) district; and

WHEREAS, the underlying R-R zoned lands of the overlay district possess extremely low residential density as compared to the residential neighborhood zoning districts present in the R-1, R-2 and R-3 districts, and the very high residential density surrounding the B, Business District, that permits industrial uses as a conditional use; and

WHEREAS, the future land use plan for the Municipality projects the overlay area as remaining low density and agricultural over the foreseeable time horizon; and

WHEREAS, in order to reasonably allow oil and gas development while balancing and mitigating potential impacts of drilling activity, this zoning amendment utilizes zoning tools authorized by the Pennsylvania Municipalities Code, such as yard requirements, setbacks, buffers and the conditional use designation with appropriate performance standards designed to place the burden on applicants for oil and gas development to demonstrate that their operations would mitigate impacts to the Municipality and its residents; and

WHEREAS, as a result of establishing this overlay district with the related zoning protections, the Municipality will provide for the reasonable development of this mineral resource; and

WHEREAS, on September 24, 2015, the Municipal Council established this ordinance as pending, and thereafter, published its action in the Penn-Franklin News; and

WHEREAS, per requirements of Act 247, the Pennsylvania Municipalities Planning Code, this pending ordinance was sent to the Murrysville Planning Commission and the Westmoreland County Department of Planning for the required 45-day review period; and

WHEREAS, upon the completion of the 45-day review period, the Municipality will schedule the required public hearing with public notice for the purpose of seeking input from the public and other interested parties; and

WHEREAS, as a result of the Municipality conducting several public education sessions and meetings on issues associated with oil and gas drilling substantial revisions were proposed to the previously prepared Ordinance which requires that the newly drafted Ordinance be sent back to the Murrysville Planning

Commission and the Westmoreland County Department of Planning for required 45 day review prior to conducting the public hearing for the proposed ordinance; and

WHEREAS, upon receipt of comments received by the Murrysville Planning Commission and the Westmoreland County Department of Planning, Council conducted a public hearing with public notice for the purpose of seeking input from the public and other interested parties on _____.

NOW, THEREFORE, be it ordained and enacted by the Council of the Municipality of Murrysville in meeting assembled, and it is hereby ordained and enacted by and with the authority of same as follows:

Section I: Repeal and Replacement of Section 220-31(CC) of the Zoning Ordinance

Section 220-31(CC) of the Zoning Ordinance is hereby repealed and replaced with the following text with the acknowledgement that the Oil and Gas Overlay District created as part of the Official Zoning Map by Ordinance # 833-11 shall remain.

CC. Exploration or production of oil or natural gas from shale reservoir or shale rock

1. Recovery of subsurface gas and oil deposits

These are activities limited to the recovery and removal of subsurface gas and oil deposits drilled with the intent to explore or produce oil or natural gas from a shale reservoir or source rock. This does not include the recovery and removal of any other subsurface minerals, such as coal, gravel, sand, clay, topsoil, stone or any other mineral other than oil and gas, from the shale rock reservoir or source rock. This use is permitted subject to the stated purpose of this Subsection CC and all of the requirements contained in this Subsection CC and the accompanying addendum, as pertaining.

2. Purpose

The purpose of this Subsection CC is to provide for the health, safety and welfare of the residents and their property in the Municipality of Murrysville, to insure compliance with Article I, Section 27 (The Environmental Rights Amendment) of the Pennsylvania Constitution [and the Charter of the Municipality of Murrysville](#); to provide the procedure for the issuance of zoning permits to enable the exploration or production of oil or natural gas from a shale reservoir or source rock; to protect the character of the community, facilitating beneficial and compatible land uses; and to further the Municipality's interest in the orderly development and use of land in a manner consistent with local demographic and land use concerns.

3. Definitions

_____ As used in this Subsection CC, the following terms shall be interpreted or defined as follows:

BEST MANAGEMENT PRACTICES

Best management practices (BMPs) are state-of-the-art mitigation measures applied to Oil and Gas Facilities and production to help ensure that energy development is conducted in a [safe and](#) environmentally responsible manner that protects air and water quality, landscapes and natural resources and public health.

BUFFER YARD

An area of land measured from the outer boundary of the Well Pad in which permanent above-ground equipment, structures, facilities and all equipment associated with the production and operation of oil and gas wells are not permitted, other than roads for vehicular access.

Deleted: An area of land measured two-hundred and fifty (250') feet from the outer boundary of the well pad site that does not permit any activity, equipment or storage associated with the oil and gas operation other than a road for vehicular access.

BUNK HOUSE

A housing facility designed and intended to be used for a temporary period of time to house oil and gas exploration related workers. Such facility is not intended to accommodate families or school-aged children. A bunk house may be a travel trailer, camper, mobile home or a structure manufactured for this particular use.

COMPLETION OF THE WELL

The date 60 days after the end date of the drilling, re-drilling or reworking of the well site in which the well is properly equipped for production of oil or gas.

COMPRESSOR

A device used alone or in series to raise the pressure of natural gas and/or by-products to create a pressure differential to move or compress a liquid, vapor or gas.

COMPRESSOR STATION

An Oil and Gas Facility designed and constructed to compress natural gas, through the use of motors, that originates from an oil and gas well or collection of such wells and to operate as an upstream or midstream facility for delivery of oil and gas to a transmission pipeline, distribution pipeline, natural gas processing and/or treatment facility or underground storage field.

DRILLING

Any vertical or horizontal digging or boring of a new well or re-working of an existing well with the intention to explore, develop or produce oil, gas or other hydrocarbons or to inject gas, water or any other fluids or substances into the earth.

DRILLING AND STIMULATION EQUIPMENT

All parts and appurtenances to such structure and every piece of apparatus, machinery or equipment used, erected or maintained in connection with oil and gas drilling, as defined herein, as well as the completion and stimulation/workover equipment utilized to complete the well.

FLOWBACK WATER

The murky, salty water from fracking natural gas wells consisting of fracturing fluid which returns to the surface as well as produced water.

FRACTURE or FRACKING

The process of injecting water, customized fracking fluid, steam, or gas into a gas well under pressure to improve gas recovery.

Comment [JM1]: Does sand need to be included as part of the process? JK

FRESH WATER

Water obtained from a potable water source of the Commonwealth such as a hydrant, stream, lake, water well, spring or other source that has not been treated or utilized in commercial or industrial operations.

FRESH GROUNDWATER

Water in that portion of the generally recognized hydrologic cycle which occupies the pore spaces and fractures of saturated subsurface materials. Groundwater often supplies wells and springs and is often withdrawn for domestic, agricultural, municipal, industrial and other beneficial uses.

GAS WELL

Any well drilled for the intent of extracting gas or other hydrocarbons from beneath the surface of the earth.

IMPOUNDMENT, FRESHWATER

A depression, excavation or facility situated in or upon the ground, whether natural or artificial and whether lined or unlined, used to store freshwater.

IMPOUNDMENT, WASTEWATER

A lined depression excavation pit or facility situated in or upon the ground, whether natural or artificial, used to store waste water fluid including but not limited to brine, fracturing fluid, produced water, recycled water, impaired water, flow back water, or any other fluid that does not satisfy the definition of "fresh water".

LOCAL STREET OR ROAD

A public street or road adopted by ordinance, serving abutting homogeneous land uses, carrying a maximum of 2,000 AWDT and provides for no truck usage except for local deliveries. "AWDT" is defined as daily traffic count average over a one-week period.

MUNICIPALITY

The Municipality of Murrysville, Westmoreland County, Pennsylvania.

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 and defined as follows: Gas is 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 or any manufactured gas, by-product gas

or mixture of gases or natural gas liquids. Oil is defined as hydrocarbons in liquid form at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA, also referred to as petroleum.

OIL AND GAS DEVELOPMENT FACILITY or FACILITY

(1) NATURAL GAS COMPRESSOR STATION

A facility designed and constructed to compress natural gas that originates from an oil and gas well or collection of such wells operating as a midstream facility for delivery of oil and gas to a transmission 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.

(2) 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 the 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.

OIL AND GAS DEVELOPMENT or DEVELOPMENT

A land development which includes the well site preparation, well site construction, drilling, fracturing, and/or site restoration associated with an oil and gas well of any depth; water and other fluid storage; gas reservoir; 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, not regulated by the Pennsylvania Public Utility Commission or United States Department of Transportation, Office of Pipeline Safety, and associated equipment; and all other equipment and activities associated with the exploration for, production of and transportation of oil and gas, including natural gas compressor stations and natural gas processing plants, structures defined as other support facilities or structures performing similar functions that operate as midstream facilities.

OIL AND GAS PROPERTY

Any surface property for which the underlying oil and gas rights are (1) leased for development and/or (2) under the control of the Operator.

OPERATOR

The person designated as Operator on the permit application and, if a separate entity from the Operator, the owner of the oil and gas development or facility which is the subject of the application.

OWNER

A person who owns, manages, leases, controls or possesses a well property.

PERENNIAL STREAM

A perennial stream is a stream that has continuous flow in parts of its stream bed all year round during years of normal rainfall.

PERMANENT FACILITY AREA

The area depicted on the Plat detailing the outer boundary of the area in which permanent above-ground equipment and structures associated with the production and operation of oil and gas wells are permitted.

PERSON

An individual, association, partnership, corporation, political subdivision or agency of the Federal Government, State government or other legal entity.

PLAT

A map, drawing or print, which shall be stamped by a Professional Engineer or registered surveyor, accurately drawn to scale showing the proposed or existing location of a well or wells, well pad and Permanent Facility Area. The plat must show any applicable Buffer Yard and Protected Structure setback.

Deleted: A map, drawing or print, which should be stamped by a Professional Engineer or registered surveyor, accurately drawn to scale showing the proposed or existing location of a well or wells and well pad. The plat must show the well pad site and the required yard setback as required in this subsection.¶

PRIVATE WATER SUPPLY

Any water supply which is not provided by a water company and not delivered through water mains. The sources of the supply may be a well, borehole, spring, stream, river, lake or pond. The supply may serve just one property or several properties through a network of pipes.

PROTECTED STRUCTURE

Any occupied structure with walls and a roof within which persons live or customarily work located within the defined setback area established in Subsection 220-31 (CC)(7). This term shall not include: (1) any structure on which construction commenced after Operator filed an application for a conditional use pursuant to Subsection 220-31 (CC); or (2) any structure located on a property other than an Oil and Gas Property, where the surface owner of the property has signed a waiver relieving the Operator from implementation of the requirements of Subsection 220-31 (CC)(7). In the waiver, the surface owner must acknowledge that he has notified all residents on the property and that the Operator is explicitly relieved from complying with the regulations applicable to the protected structure. The waiver must be notarized and approved by the Municipal Solicitor.

Deleted: Any occupied structure with walls and a roof within which persons live or customarily work located within the defined setback area established in this Subsection 220-31(CC). The term shall not include any structure whose owner has signed a waiver relieving the Operator from implementation of the measures established in this Subsection CC or other applicable provisions of the Code of the Municipality of Murrysville. In the waiver, the owner of the protected structure must acknowledge that he has notified all residents on the property and that the Operator is explicitly relieved from complying with the regulations applicable to a protected structure. The waiver must be notarized and approved by the Municipal Solicitor.¶

PROTECTED STRUCTURE WAIVER

The ability of the surface owner of any property within the setback area to grant a waiver for any or all parts of the defined setback established in Subsection 220-31(CC)(7) of this Ordinance. In the protected structure waiver, the surface owner must acknowledge that he has notified all residents on the property and that the Operator is explicitly relieved from complying with the regulations applicable to the protected structure. The waiver must be notarized and approved by the Municipal Solicitor.

Comment [JM2]: Does protected structure need to be more clearly defined. DP

RECREATION AREA

An area of land owned and maintained by the Municipality, the Franklin Regional School District, the Westmoreland Conservancy or a non-public or private academic institution licensed by the State of Pennsylvania and used for active parks, playgrounds, athletic facilities and similar uses.

Deleted: ¶

Deleted: An area of land, either owned publicly, privately, or by a non-profit organization that can include parks, open space, playgrounds, trails, waterways, athletic facilities and similar uses for the enjoyment of the public.¶

RE-DRILL

Deepening or sidetrack/horizontal drilling of the existing well bore extending more than 150 feet from said well bore.

RE-WORK

Re-entry of an existing well within the existing bore hole or by deepening or sidetrack/horizontal operations (which do not extend more than 150 feet horizontally from the existing well bore) or replacement of well liners or casings.

WASTE WATER

Water which has been previously used for industrial, municipal, domestic or other purposes including those associated with fracturing, drilling flowback, and other drilling related activities.

WATER IMPOUNDMENT - FRESH

A lined depression excavation pit or facility situated in or upon the ground whether natural or artificial and used to store fresh water.

WATER IMPOUNDMENT - WASTE

A lined depression excavation pit or facility situated in or upon the ground, whether natural or artificial, used to store waste water fluid including but not limited to brine, fracturing fluid, produced water, recycled water, impaired water, flow back water, or any other fluid that does not satisfy the definition of "fresh water".

WELL

A bore hole drilled or being drilled for the purpose of or to be used for producing or extracting gas, petroleum or another liquid related to oil or gas production.

WELL PAD

Shall consist of the area extending to the limits of disturbance of the grading plan for a drilling site where a well is to be drilled and occupied by any of the facilities, structures, and equipment associated with or incidental to the construction, drilling, fracturing, production, or operation of an oil or gas well. Notwithstanding the foregoing, the well pad site does not include the access road.

WETLAND

Areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and which normally support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

4. Oil and Gas Recovery Overlay District

The Oil and Gas Recovery Overlay District is contained within the Official Zoning Map of the Municipality of Murrysville. The intent of the Oil and Gas Overlay District is to provide reasonable areas within the Municipality where mineral extraction may occur and to enact regulations

regarding the activities associated with mineral extraction which are not otherwise within the jurisdiction of federal and state regulations and from which the Municipality is not preempted by the Pennsylvania Oil and Gas Act. The Municipality of Murrysville believes that mineral extraction activity without proper regulation may pose hazards to the health, safety, and general welfare of the residents of the Municipality. Therefore, the overlay district and associated regulations have been created in order to limit unconventional oil and gas recovery operations to areas of the Municipality identified in the 2015 Comprehensive Plan, based on historic agricultural and resource recovery areas and areas that permit short-term industrial uses such as quarrying and mining. The overlay area is also not targeted for development due to limited public infrastructure and has the least densities of households per square mile as identified in the 2015 Comprehensive Plan, thus excluding unconventional oil and gas operations from the more dense residential neighborhoods and commercial corridors in order to minimize impacts on these residential neighborhoods, public facilities, infrastructure, and the environment, and ensure that all operations comply with all federal, state and local laws.

5. Conditional Use

a. Unconventional Oil and Gas Drilling shall be evaluated as a Conditional Use within the Oil and Gas Overlay District, subject to the procedures and provisions of this Section, Section 220-31 of this Chapter.

Comment [JM3]: Should prohibition of compressor stations be listed here? It should be clear this use is not permitted in the overlay district.
DP

6. Application Requirements

In order to be evaluated as a Conditional Use, the applicant shall be required to submit the following documents and information to the Municipality:

a. A person or entity desiring approval of a conditional use application pursuant to this Subsection shall submit a written application. Before submitting an application, the applicant is strongly encouraged to meet with the municipal staff to determine the requirements of and the procedural steps for the application. The intent of this process is for the applicant to obtain necessary information and guidance from the staff with regard to the site, plan preparation and governing laws.

b. The application shall not be considered to be complete and properly filed unless and until all items required by this Subsection, including the application fee, have been received. Such application shall include the following information and plans:

- (1) Fourteen (14) paper copies and one electronic copy of the completed application form supplied by the Municipality along with supporting documentation as identified in this section.
- (2) Written permission from the property owner(s) who have legal or equitable title in and to the surface of the drill site or a demonstrable documentation of the applicant's authority to occupy the surface for the purpose of mineral extraction.
- (3) Copies of any and all permits and applications submitted to the various local, county, state and federal agencies. Permits and plans shall include but not be limited to the Pennsylvania Department of Environmental Protection well application and permit, ESCGP-1 or other

erosion and sedimentation permits or approvals and all air, water and waste management permits.

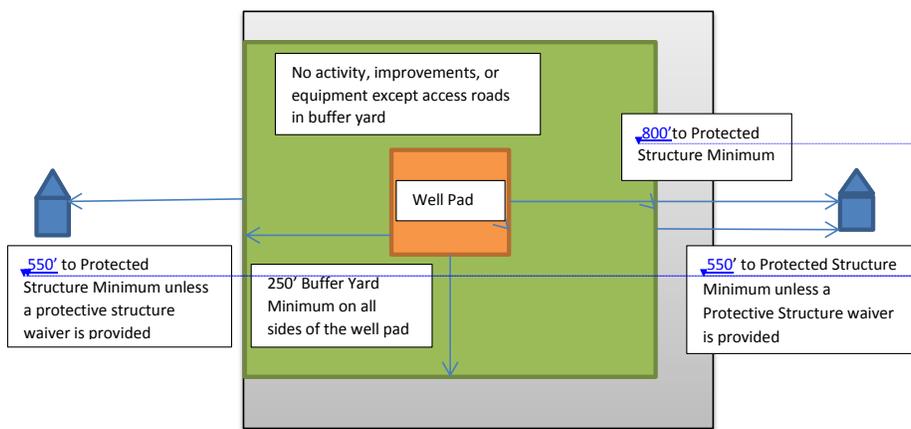
- (4) A survey of the Oil and Gas Development, prepared and stamped by a Professional Land Surveyor or Professional Engineer, showing the access road(s), well pad, required yard setbacks, buffer yard, location and owners of the Protected Structures, the area where associated gas production equipment, the well bore, bunk houses, buildings, parking, staging areas, detention ponds and storage areas will be located.

7. Area, Yard, Height and Setback Requirements Applicable to Oil and Gas Developments

All area, yard, height, and setback requirements of the underlying zoning district as well as setback requirements established by the Commonwealth of Pennsylvania or United States Government shall apply, except for the following requirements below:

- a. A Buffer Yard of a minimum of two-hundred and fifty (250') feet on all sides of the outer boundary of the Permanent Facility Area.
- b. No Protected Structure shall be located within a distance of five-hundred and fifty (550') feet on all sides from the outer boundary of the Buffer Yard unless a Protective Structure waiver is provided to the Municipality.
- c. No Permanent Facility Area or Well Pad shall be located within three hundred (300') feet of the exterior boundary of a Recreation Area.

d. Figure 1, below provides an example of the application of the above requirements.



Deleted: (a) A buffer yard of a minimum of two-hundred and fifty (250') feet on all sides of the outer boundary of the well pad site shall be established from the edge of the well pad site on all sides of the well pad site. No activity associated with the drilling operation, except for access to the well pad shall be permitted within the buffer yard.¶
 (b) No Protected Structure shall be located within a distance of 750 feet on all sides from the outer boundary of the buffer yard. The Municipality reserves the right to increase this setback based on physical characteristics of the site and evidence received at a hearing necessitating an increase in the minimum setback, including but not limited to topography, wind conditions, air modeling studies, woodlands, hydrogeological studies, and distance from structures, parks, schools, and residential neighborhoods. The owner of the protected structure may sign a waiver relieving the Operator from implementation of the measures established herein. In the waiver, the owner of the protected structure must acknowledge that he has notified all residents on the property and that the Operator is explicitly relieved from complying with the regulations applicable to a protected structure. The waiver must be notarized and approved by the Municipal Solicitor.¶
 (c) No oil and gas drilling operation shall be located within 300 feet of the exterior boundary of a Recreation Area.¶
 (d) A minimum front, side and rear yard of 250 feet shall be required from the property lines in which the well pad site is located.¶
 (e)

- Deleted:** (d)
- Deleted:** 1000'
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8. Performance Standards and Other Requirements

The Applicant shall demonstrate compliance with the following performance standards that are associated with the development site and its impacts upon the Municipality and neighboring property owners:

a. Traffic Controls

(1) The proposed routes must be designed to minimize the impact on streets within the Municipality. The Municipality reserves the right to designate alternate routes in the event that the applicant's proposed routes are deemed inadequate, unsafe or overly disruptive to normal vehicular traffic by the Municipal Engineer..

(2) Prior to the commencement of any activity at the development or facility, the Operator shall enter into a municipal roadway maintenance and repair agreement with the Municipality, in a form acceptable to the Municipality, regarding maintenance, repair and bonding of municipal roads that are to be used by vehicles for development activities. The municipal roadway maintenance and repair agreement shall identify the responsibilities of the applicant to prepare, maintain, and repair municipal roads before, during and immediately after drilling operations associated with the development or facility. The operator shall take all necessary corrective action and measures as directed by the Municipality pursuant to the agreement to ensure the roadways are repaired and maintained during and at the conclusion of all development activities.

(3) The 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 allowed, during periods of anticipated heavy or frequent truck traffic associated with the development or facility, the Operator shall provide flagmen to ensure the public safety and include adequate signs and/or other warning measures for truck traffic and vehicular traffic.

(4) There shall be no staging of trucks or equipment on local roads.

(5) The access driveway off the public road to the drill site shall be gated at the entrance to prevent illegal access into the drill site. The drill site assigned address shall be clearly marked.

(6) No idling of diesel powered motors or motor vehicles shall be permitted within the Buffer Yard area.

b. Ponds and Pits

Best management practices are strongly recommended to be used during the drilling or completion of any well. All facilities shall be allowed only on the parcel/property where the permitted drilling site is occurring. No off-site facilities shall be permitted. Impoundments shall not use surface aerators. All drill site impoundments shall be secured with a temporary fence with a secured gate as follows:

- ___(1) .The fence shall be chain link and a minimum of six (6) feet in height.
- ___(2) .The fencing shall be in place throughout the drill operation and until the impoundment is removed.
- ___(3) .The chain link fence shall have a minimum thickness of eleven (11) gauge.
- ___(4) .Impoundments must comply with all state and federal laws in regards to leak detection and monitoring and must comply with EPA 9090 or any regulation that supersedes it.

___ c. **Hours of Operation**

___ Except for emergency and governmental compliance activity or during fracking or drilling, hours of operation are limited to Monday through Saturday, 7:00 a.m. to 9:00 p.m. All deliveries and pickups incidental to the oil and gas development or facility must occur during the defined hours of operation.

Comment [JM4]: Is clarification needed. Lee

___ d. **Notice**

___ At least 30 days prior to any activity at the development or facility, the Operator shall provide the following information to each property owner within 2,500 feet of the planned surface location of the development or facility:

- ___(1) A general description of the planned operations at the development or facility and associated equipment to be used;
- ___(2) .The contact information for the Operator; and
- ___(3) .The date to hold a meeting locally with such residents to present the Operator's plans for the development or facility and to allow for questions and answers. The meeting shall be held prior to the commencement of development activity.

___ e. **Inspection and Monitoring**

___ A duly authorized representative(s) of the Municipality, trained by the Operator or his agents, shall have the authority in relation to the enforcement of this Subsection CC, to enter upon the property of a development or facility for the purpose of inspecting the site, equipment and all other aspects of the site necessary to assure compliance with this Subsection CC.

f. **Notification**

___ The Operator of any development or facility shall notify the Emergency Management Coordinator, Municipal Zoning Officer and Municipal Engineer no less than 90 days prior to the startup and abandonment or shutdown of any well site.

g. Visual

The oil and gas development or facility 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. The Operator shall not clear brush or trees by way of burning and shall chip, grind or remove all tree stumps from properties it clears for development purposes. The location and design of structures and site improvements shall be integrated with the natural color, form and texture of the surrounding area.

h. Hazards

Upon request of the Emergency Management Coordinator, the Operator shall, prior to drilling its first gas well in the Municipality, make available with at least 30 days' notice, at the applicant's sole cost and expense, one appropriate group training program for emergency responders and municipal code enforcement personnel. Such training shall be made available at least annually during any year that drilling activities take place at the oil and gas development or facility. Training should cover each phase of the development from site work to well completion. If additional wells are drilled at the site, the Operator and Emergency Management Coordinator will determine if additional training is required.

j. Fencing, Screening and Buffering

(1) Galvanized chain-link security fencing shall not be required at the well site, with the exception of fresh and waste water impoundments and open pits, during the initial drilling or re-drilling operations, as long as manned twenty-four-hour on-site supervision and security are provided. Freshwater ponds and open pits shall be fenced in accordance with this subsection.

(2) Upon completion of drilling or re-drilling, security fencing consisting of a permanent, galvanized chain-link fence shall be promptly installed at all well sites to secure wellheads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and structures on the well site.

(3) Security fencing shall be at least six (6) feet in height, equipped with lockable gates at every access point, and having openings no less than 12 feet wide. Gates shall be kept locked except when being used for access to the site. Additional lockable gates used to access the wellsite, fresh and waste water ponds or open pits by foot may be allowed, as necessary. The fence posts shall be set in concrete at sufficient depths to maintain the stability of the fence.

(4) The Municipality's first responders shall be given means to access the well site in case of an emergency. It is recommended that a lock box be installed. The applicant must provide the Westmoreland County 911 Communications Center with necessary information to access the development or facility in case of an emergency.

(5) Warning signs shall be placed on the fencing surrounding the development or facility, providing notice of the potential dangers and the contact information in case of an

emergency. During drilling and hydraulic fracturing, clearly visible warning signage must be posted on the well site.

____(6) In construction of the oil and gas development or facility, the natural surroundings shall be considered and attempts made to preserve existing trees and other native vegetation. Existing trees and respective root systems should not be disturbed whenever possible.

____(7) Oil and gas developments and facilities are subject to Chapter 220, § 220-51B, Landscaping and buffering, of the Code of the Municipality of Murrysville.

k. Bunk Houses

____(1) There shall be only one unit per development, with a maximum occupancy of six (6) individuals.

____(2) The occupancy of the bunk house shall not exceed 60 days at which time it shall be removed.

____(3) The structure shall only be occupied during drilling, re-drilling, fracking or completion activities and only by employees or contractors responsible for such activities at the well site.

____(4) The Operator shall provide an enforceable alcohol and drug policy for occupants of the bunk house.

____(5) The Operator shall provide a firearms policy for occupants of the bunk house.

____(6) Occupants of the bunk house shall be required to sign in and out before entering or leaving the development.

____(7) The Operator shall meet all state and local water and sewage requirements.

l. Conditional Use Approval

Conditional Use approval shall automatically terminate, unless extended, if drilling is not commenced within one (1) year from the date of issuance of the conditional use. The conditional use approval may be extended by Council upon written request by the Operator. The Operator shall provide proof that the requested conditional use permit for such location has not changed.

m. Developers Agreement

The applicant and any subcontractors associated with the development of the oil and gas well operation shall be required to sign upon receiving Conditional Use approval, a Developers Agreement, prepared by the Municipal Solicitor. Such Developers Agreement shall contain the conditions of approval as granted by Council and hold all parties responsible for compliance with those conditions.

9. Oil and Gas Development Facilities

a. Oil and gas development facilities, which employ the use of compressors, motors or engines as part of the operations and/or produce air-contaminant emissions or offensive odors, gathering system facilities, Natural Gas Processing Plants and production facilities shall be listed as a Principal Use upon Conditional Use approval only in the B, Business Zoning District, subject to this Section CC, all applicable chapters of the Code of the Municipality of Murrysville and the following. In the event that any required provision of this section is otherwise regulated by the provisions of the Oil and Gas Act of the Commonwealth of Pennsylvania, the applicant shall submit documentation demonstrating compliance with the provisions of the Oil and Gas Act.

(1) The Applicant shall strive to consider locations for its temporary and permanent operations where prudent and possible so as to minimize interference with the residents' enjoyment of their property and future Municipal development activities. The Applicant must present expert witness testimony to demonstrate the location of the facility will not unreasonably adversely affect lawful existing or authorized uses of adjacent properties.

(2) A Conditional Use application for an Oil and Gas Development Facility shall be accompanied with written permission from the property owner(s) who has legal or equitable title in and to the surface rights of the property or a court order recognizing the Operator's authority to occupy the surface. If the Operator owns the property, proof must be provided.

(3) Conditional Use approval shall automatically terminate, unless extended, if substantial construction is not commenced and sustained within one (1) year from the date of issuance of the conditional use. The conditional use approval may be extended by Council upon written request by the Operator. The Operator shall provide proof that the requested conditional use permit for such location has not changed.

(4) As part of the Conditional Use application, the Municipality and emergency management services shall be provided the name of the person supervising the compressor station and a phone number where such person can be reached twenty-four (24) hours a day. Also, a list of contact information for all sub-contractors associated with the operations of the station must be provided. The list shall include verification that all supervisors/Operators and sub-contractors at the site are aware and understand this ordinance.

(5) All Oil and Gas Development Facilities shall be completely enclosed by a building.

(a) The building shall be constructed such that the architectural character complements the existing character of the area. The building shall employ architectural features including but not limited to sloped roofs, stone and brick accents, steeples, cupolas, etc.

- _____ (b) The building shall employ sound proof type walls and all equipment associated with the compressor station shall be enclosed within the building. All acoustical structures shall be constructed of metal, masonry, or other structurally sound material as approved by the Municipality's Planning Director.
- _____ (6) The access driveway off the public road to the station shall be gated at the entrance to prevent illegal access into the site. The site assigned address shall be clearly visible on the access gate for emergency 911 purposes. In addition, the sign shall include the station name and number, name of the Operator and the telephone number for a person responsible who may be contacted in case of emergency.
- _____ (7) Oil and Gas Development Facilities owners shall evaluate the use of electric motors rather than internal combustion engines. Council may approve the use of internal combustion engines as part of the conditional use approval if deemed necessary based on evidence provided by the Operator. However, any exhaust from any internal combustion engine or compressor used in connection with the station, used by any production equipment, or used in development shall not be discharged into the open air unless it is equipped with an exhaust muffler or an exhaust box. The exhaust muffler or exhaust box shall be constructed of non-combustible materials designed and installed to suppress noise and disruptive vibrations. Moreover, all such equipment with an exhaust muffler or exhaust box shall be maintained in good operating condition according to manufacturer's specifications.
- _____ (8) A minimum parcel size of ten (10) acres is required. The front, rear and side yard requirements shall be a minimum of 250 feet.
- _____ (9) The site shall be designed utilizing natural topography and/or constructed earthen mounds so as to minimize visibility from adjacent streets and properties.
- _____ (10) No structure associated with oil and gas facilities shall be located less than 1,200 feet from any protected structure unless the owner has signed a waiver relieving the Operator from implementation of the measures established herein. In the waiver, the owner must acknowledge that the Operator is explicitly relieved from complying with the regulations applicable to a protected structure. The waiver must be notarized and approved by the Municipal Solicitor.
- _____ (11) The applicant shall provide a Noise Management Plan. The applicant shall provide an acoustics study as defined in Chapter 201, § 201-54R, of the Code of the Municipality of Murrysville.
- _____ (12) A security fence, as specified in Subsection 8 (j), Fencing, Screening and Buffering, shall be set back at least 10 feet from the property line and 20 feet from a public right-of-way.
- _____ (13) Drip pans must be placed in any location, under equipment, that has the potential to leak. All condensate tanks shall be equipped with vapor recovery and/or vapor destruction units.

(14) All Oil and Gas facilities, including but not limited to pumping units, storage tanks, buildings, and structures shall be designed to be compatible with the surrounding uses. Neutral colors shall include sand, gray, green and unobtrusive shades of brown, or other neutral colors, as approved by the Zoning Officer.

(15) Oil and Gas Development Facilities shall be inspected by the fire department prior to operation. During the active operation at the facility, Municipal Staff or consultants designated by the Chief Administrator shall have access to the site to determine continuing compliance with the conditional use approval.

(16) The Operator shall be required to provide notice of any spills and/or releases to the Municipality within twelve (12) hours of the discovery of the event.

Section II: Amedment to Section §220-16 of the Zoning Ordinance

The Nonresidential Zoning Districts Land Use Authorization Table contained in Section §220-16 of the Zoning Ordinance is hereby amended to include the following land uses:

<u>Land Use</u>	<u>Subject to</u>	<u>MU</u>	<u>B</u>
Natural Gas Compressor Station	§220-31(CC)		C
Natural Gas Processing Plant	§220-31 (CC)		C

Section III: Reverter Clause

That if any section, subsection, sentence, clause phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct and independent provision and such holding shall not affect validity of the remaining portions thereof.

Section V: Repealer

That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section VI: Effective Date

That this ordinance shall be in full force and effect from and after its passage and approval.

THIS ORDINANCE ORDAINED AND ENACTED AT A REGULARLY CONSTITUTED, DULY CONVENED MEETING OF THE COUNCIL OF THE MUNICIPALITY OF MURRYSVILLE, THIS _____ DAY OF _____, 2016.

COUNCIL OF THE MUNICIPALITY OF MURRYSVILLE

Joan C. Kearns – Council President

James R. Morrison – Municipal Secretary

(Seal)

Deleted: ¶

APPROVED/REJECTED:

Deleted: ¶

Robert J. Brooks, Mayor

Dated: _____, 2016

<u>Member</u>	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Abstain</u>
<u>Loren Kase</u>				
<u>Joan C. Kearns</u>				
<u>Jeffery Kepler</u>				
<u>Jamie Lee</u>				
<u>Joshua Lorenz</u>				
<u>David Perry</u>				
<u>Tony Spadaro</u>				

Comment [JM5]: Kepler