

**BOROUGH OF WEST MIDDLETOWN**  
**WASHINGTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 01-2012

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF WEST MIDDLETOWN, WASHINGTON COUNTY, PENNSYLVANIA, AMENDING THE BOROUGH ZONING ORDINANCE IN ORDER TO BRING IT INTO COMPLIANCE WITH ACT 13 OF 2012 BY: ADDING DEFINITIONS; LISTING OIL AND GAS OPERATIONS, OTHER THAN IMPOUNDMENT AREAS, COMPRESSOR STATIONS AND PROCESSING PLANTS, AS A PERMITTED USE IN THE R-1 DISTRICT; LISTING IMPOUNDMENT AREA AS A PERMITTED USE IN THE R-1 DISTRICT; LISTING COMPRESSOR STATION AS A PERMITTED USE IN THE R-1 DISTRICT; LISTING PROCESSING PLANT AS A CONDITIONAL USE IN THE R-1 DISTRICT; AMENDING SECTION 5.01 TO PROVIDE FOR SETBACKS CONSISTENT WITH ACT 13; AMENDING SECTION 5.02 TO CLARIFY THAT A PERMIT IS NOT REQUIRED FOR SUBTERRANEAN OPERATIONS AND WELL AND PIPELINE LOCATION ASSESSMENT OPERATIONS; ADDING A NEW SUBSECTION TO SECTION 5.02 TO REQUIRE THAT AN APPLICATION FOR A PERMITTED USE FOR OIL AND GAS OPERATIONS BE PROCESSED WITHIN 30 DAYS; AND ADDING A NEW SUBSECTION TO SECTION 9.06 TO REQUIRE THAT AN APPLICATION FOR A CONDITIONAL USE FOR OIL AND GAS OPERATIONS BE PROCESSED WITHIN 120 DAYS.**

WHEREAS, the Municipalities Planning Code, 53 P.S. §10101 *et seq.* (the "MPC"), authorizes the Borough of West Middletown (the "Borough") to regulate land uses in the Borough; and

WHEREAS, pursuant to its authority under the MPC, the Council of the Borough (the "Council") enacted Ordinance No. 001-92 of 1992, in order to establish zoning regulations within the Borough; and

WHEREAS, the Council from time to time adopted amendments to Ordinance No. 001-92 of 1992 (said ordinance as so amended being referred to hereafter as the "Zoning Ordinance"); and

WHEREAS, on February 14, 2012, the Governor signed into law Act 13 of 2012 ("Act 13"), which provides, *inter alia*, for certain limitations on the authority of local governments to regulate oil and gas operations, and which further requires local governments to bring their ordinances into compliance with the requirements of Act 13; and

WHEREAS, the Council desires to amend the Zoning Ordinance as set forth below in order to bring it into compliance with the requirements of Act 13 and to maintain, preserve and protect the public health, safety and welfare.

NOW THEREFORE, the Council hereby ordains and enacts as follows, incorporating the above recitals by reference:

**SECTION 1.** Article II of the Zoning Ordinance is amended by inserting the following underlined text and deleting the following stricken text:

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Borough - The Borough of West Middletown, Washington County, Pennsylvania.

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Building - A structure or appendage to a structure which: is permanently affixed to the land; has one or more floors or stories; and, is bounded by either lot lines or yards. When separated by dividing walls without openings, i.e., common wall, each portion of such buildings so separated shall be deemed a separate unit. A "building" shall not include such structures as signs, fences, or other structures with interior surfaces not normally accessible to human use.—An occupied structure with walls and a roof within which individuals live or customarily work.

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Compressor Station - A facility designed and constructed to compress natural gas that originates from a gas well or a collection of such wells operating as a midstream facility for delivery of gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground storage field, including one or more natural gas compressors, associated buildings, dehydration units, pipes, valves, tanks and other equipment.

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Impoundment Area - 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.

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Oil and Gas Operations - The term includes the following:

- (1) 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;
- (2) water and other fluid storage or impoundment areas used exclusively for oil and gas operations;
- (3) construction, installation, use, maintenance and repair of:



- (i) oil and gas pipelines;
  - (ii) natural gas compressor stations; and
  - (iii) natural gas processing plants or facilities performing equivalent functions;
- and

(4) construction, installation, use, maintenance and repair of all equipment directly associated with activities specified in paragraphs (1), (2) and (3), to the extent that:

- (i) 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
- (ii) the activities are authorized and permitted under authority of a Federal or Commonwealth agency.

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Permitted Use - A use which, upon submission of written notice to and receipt of a permit issued by the Borough zoning officer or equivalent official, is authorized to be conducted without restrictions other than those set forth in Sections 4.01, 4.03 and 5.01.

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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.

**SECTION 2.** Section 4.01 of the Zoning Ordinance, Permitted Uses, is amended by inserting the following underlined text and deleting the following stricken text:

**Section 4.01. Permitted Uses.** Any land, buildings, or premises shall be used by right only for ~~either~~ single-family detached dwellings, or farming purposes, or oil and gas operations (other than processing plant),

**SECTION 3.** Section 4.03 of the Zoning Ordinance, Conditional Uses, is amended by inserting the following underlined text and deleting the following stricken text:

**Section 4.03. Conditional Uses.** The following uses may be permitted in a residential district after review and recommendation by the Planning Commission and review and approval by the Council in accordance with the requirements of Section 9.06 of this Ordinance: ~~mobile home park land development; single-family clustered lot development; and personal care boarding homes for the elderly; and~~ processing plant.

**SECTION 4.** Section 5.01, Area and Bulk Regulations, of the Zoning Ordinance is amended by inserting the following table, entitle “Oil and Gas Operations” as new subsection (e):

USE	MINIMUM SETBACK	NOISE LIMITATION
Impoundment area	300 feet from an existing building	N/A
Compressor station	750 feet from an existing building or 200 feet from the property line, whichever is greater, unless waived by the owner of the building or the adjoining lot	Not to exceed 60 dBA at the nearest property line or the applicable standard imposed by Federal law, whichever is less
Processing plant	750 feet from an existing building or 200 feet from the property line, whichever is greater, unless waived by the owner of the building or the adjoining lot	Not to exceed 60 dBA at the nearest property line or the applicable standard imposed by Federal law, whichever is less
Oil and gas operations other than an impoundment area, compressor station or processing plant	Edge of well pad: 300 feet from an existing building  Gas pipelines, water pipelines, access roads and security facilities: None  All other oil and gas operations: 300 feet from an existing building	N/A

**SECTION 5.** Section 5.02 of the Zoning Ordinance, Plan Review and Permits, is amended by inserting the following underlined text:

(a) Permits:

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5. Maximum review period for oil and gas operations. Notwithstanding the above, the maximum review period for a permit application for a permitted use for oil and gas operations shall not exceed 30 days. A permit application for oil and gas operations shall be deemed approved if more than 30 days elapses after application without a decision by the Zoning Officer.

6. Exceptions. A permit shall not be required for the following activities:

(i) 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 well bores; and

(ii) well and pipeline location assessment operations, including seismic operations.

**SECTION 6.** Section 9.06 of the Zoning Ordinance, Conditional Use Procedure, is amended by inserting the following new subsection:

(d) Notwithstanding the foregoing, the maximum review period for action on a conditional use application for oil and gas operations shall not exceed 120 days. A conditional use application for oil and gas operations shall be deemed approved if more than 120 days elapses after application without a final decision from the Borough Council.

**SECTION 7. Repealer.** All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed to the extent of any such inconsistency.

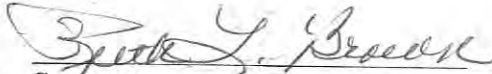
**SECTION 8. Severability.** If any sentence, clause, section or other part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

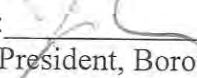
**SECTION 8. Effective Date.** This ordinance shall become effective in accordance with applicable law.

ORDAINED and ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the Council of the Borough of West Middletown in lawful session duly assembled.

ATTEST:

BOROUGH OF WEST MIDDLETOWN

  
Secretary  
(Seal)

By:   
President, Borough Council

EXAMINED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2012.

  
Mayor