



Allegheny County Council

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Legislation Text

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An ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending and supplementing the Allegheny County Code of Ordinances, Division 2 (entitled "County Government Operations") through the creation of a new Chapter 272 in order to provide for public access to oil and gas lease information relating to property located within Allegheny County.

Whereas, by Order of Court issued January 7, 2008, all power and authority previously vested in the elected Allegheny County Recorder of Deeds Office is now vested in the Allegheny County Department of Real Estate; and,

Whereas, the Department of Real Estate, maintains and preserves all legal documents affecting title to real property, such as deeds, liens, mortgages, and/or the leasing or retention of subsurface mineral, coal and/or natural gas ownership; and

Whereas, legal instruments, such as deeds, are recorded either for giving legal public notice of their existence, or for safekeeping and future reference; and,

Whereas, as of May 2, 2018, the, PA Department of Environmental Protection has issued 258 drilling permits in Allegheny County. There are now 141 operating wells, with an additional 117 wells permitted. It is estimated that 18% of Allegheny County land, both public and private lands, have been leased for gas extraction purposes; and,

Whereas, Allegheny County has no readily available means of documenting for the benefit of the public, where private and/or public land is leased for the express purpose of the extraction of oil and natural gas; and,

Whereas, in order to promote the orderly development of land, the tracking of ownership of sub-surface property held by individuals, partnerships, corporations, and governmental entities, it is critical to ensure that the public has the ability to accurately access available information that indicates where lands have been leased, by whom, and for oil and natural gas extraction activities; and,

Whereas, ordinary citizens attempting to research a deed to determine who holds title to subsurface minerals, coal, and gases, will find it difficult, costly and produce uncertain results. Furthermore, disclosed or undisclosed easements and rights of way, grants of mineral and water rights may be exempted from title insurance coverage, and are not part of the title search process and would not necessarily come to light when buying or selling property; and,

Whereas, the Allegheny County Code, at *Article I: Unconventional Gas Well Fee, §790-6*, allows for the use of Act 13 impact fee funds to financially support governmental functions associated with the management of natural gas production from unconventional gas wells within the County, including but not limited to public safety related matters, and financial support for planning and records management, geographic information systems, and information technology; and,

Whereas, due to the impactful nature of oil and natural gas extraction, it is in the best interest of Allegheny county government, municipal government, for-profit and non-profit planning organizations, for-profit and non-profit real estate developers, individual property owners, and other enterprises, to have readily available information that easily identifies properties in Allegheny County that have been leased for oil and natural gas extraction.

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference as set forth in their entirety herein.

SECTION 2. Amendment of the Code.

The Allegheny County Code of Ordinances Division 2 is hereby amended and supplemented through the creation of a new Chapter 272, comprised as follows:

Chapter 272: Oil and Gas Lease Registry

§272-1 Definitions

The following terms shall have the meanings delineated herein unless the context clearly indicates to the contrary.

CONVENTIONAL OIL AND GAS - petroleum, or crude oil, and raw natural gas extracted from the ground by conventional means and methods.

UNCONVENTIONAL OIL AND GAS - oil and gas resources which cannot be explored, developed and produced by conventional processes using the natural pressure of the wells and pumping or compression operations. Unconventional crude oil and natural gas are trapped in the pores of sediments rocks called shale

FRACTURE OR FRACTURING - The process of injecting water, sand, customized fracking fluid, steam, or gas into a gas well to allow or to improve gas recovery of a rock formation

LESSOR - a legal entity (i.e., a natural or unnatural person, a partnership) that grants a lease. As such, a lessor is the owner of an asset that is leased under an agreement to a lessee for the lessee's use of the asset.

LESSEE is a person who rents land or property from a lessor. The lessee must uphold specific obligations as defined in a lease agreement, and by law.

OIL AND/OR GAS LEASE - An oil and gas lease is a contract between a mineral owner, the lessor, and typically an oil company, the lessee, which describes the parties' rights and obligations for the development of oil and gas reserves. The lease conveys to a legal entity the mineral owner's rights to explore, develop and produce oil and gas. Typically, the legal entity provides to the lessor monetary compensation to acquire such

rights.

NATURAL GAS - a mixture of gaseous hydrocarbons chiefly methane, and also includes, but is not limited to propane, butane, ethane occurring naturally in earth.

OIL - A mixture of hydrocarbons that exists in liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Depending upon the characteristics of the crude stream.

§272-2 Intent

It is the intent of the County of Allegheny to provide for the creation of an Oil and Gas Lease Registry (“Lease Registry”) in order to promote the orderly and safe development of oil and gas extraction.

The matter of the extraction of oil and gas, particularly by way of high volume hydraulic fracturing (“HVHF”), is unique in that it has the potential to involve and/or impact upon practically all land in the county. These land use impacts include, but are not limited to, well pads, compressor stations, pipelines, tanks, impoundments and other supporting infrastructure. These use impacts may also extend into public rights-of-way and other public spaces.

The Lease Registry will provide for a comprehensive list of all lands that are leased for oil and gas extraction, by both conventional and unconventional means, and related uses within the county. In doing so, we achieve a much-needed capability to identify and map where potential land uses associated with the extraction of oil and natural gas may occur.

The dissemination of this public information is of vital importance to the county’s 130 municipalities and townships. Local government is empowered to determine land uses through its own zoning code as provided for in the Pennsylvania Municipal Planning Code (“MPC”) (P.L. 805, Act 247 of 1968). The county’s planning agency, per the MPC, also plays a role in the development of local zoning ordinances. It benefits both county and local governments, from a planning and land use perspective to know where land has been leased in the course of developing zoning ordinances.

The MPC also requires municipal governments to adopt a Comprehensive Plan, and to amend it at least once every ten years. The Lease Registry would provide a public benefit in the development or amendment of a comprehensive plan.

Public safety agencies within the county, in order to appropriately plan and prepare for the potential for any events/incidents that may put the public’s safety at risk, would also benefit from the registry, particularly from a public safety planning perspective.

§272-3 Establishment of the Allegheny County Oil and Gas Lease Registry; Funding & Fees

The Allegheny County Department of Real Estate shall take all appropriate actions necessary to cause the establishment of an Allegheny County Oil and Gas Lease Registry (“Lease Registry”). The Lease Registry shall be made available to the public in a form that is readily available and accessible on the county’s internet web site at the Department of Real Estate. Only publicly available information is to be provided.

The County Executive shall, with the establishment of this Lease Registry, provide for a budgetary line item in the annual operating budget of the Department of Real Estate, and, in support of its operation, is authorized to make such appropriations of funds as are necessary for the establishment, and ongoing operations of the Lease Registry.

1. The County Executive may utilize supportive appropriations from funds derived from Act 13 Impact Fees, pursuant to the County Code; Division 7: Land Use; Chapter 790 Wells; Art. I Unconventional Well Fee; §790-6 Use of Funds; sub-section c (public safety) and sub-section h (records management).
2. The county executive is hereby authorized to establish a Lease Registry fee, or an appropriate range of fees, for registrants.
 - a. Fee(s), if imposed, shall be utilized solely to defray legitimate and justifiable Lease Registry administrative costs.
 - b. The County Executive provide the County Council with a fee schedule for its approval by resolution.
 - c. After the establishment of an initial fee schedule, all adjustments to the fee schedule proposed by the County Executive shall be approved by the County Council.

§272-4 Mandatory Registration

All persons(s) who have, or otherwise possesses an oil and gas lease on land that is within Allegheny County is required to register the lease at the Lease Registry.

§ 272-5 Registrants

Any, Pennsylvania city, township, or borough of all classes, public or private corporations, partnerships, limited partnerships, and natural or unnatural persons, be they residents of Allegheny County, or non-residents and/or foreign nationals, and, the above-mentioned hold, possesses and/or otherwise has legitimate title to leasing rights to oil and/or natural gas on real property within Allegheny County shall register the lease or leases, they legally possess, with the Lease Registry within One Hundred and Eighty (180) calendar days, from the date the Registry is first made available to the public to accept registrations.

All subsequent leases entered into after the date the Lease Registry is first made available, shall be registered within thirty (30) days of the execution of a legally binding lease subject to registration.

§272-6 Penalty for Non-Registration

In the event a lease is not registered as required in the Lease Registry, in a manner as proscribed by the Director of the Department of Real Estate, a first offense penalty shall be Seventy-Five dollars (\$75.00) per lease, plus court costs.

Any person or persons violating the requirement to register a lease or leases, or any provision of this Chapter, as a second offense and thereafter, shall pay a civil penalty of One Hundred Fifty dollars (\$150) per lease, plus

court costs.

§272-7 Authorization for Manager of Department of Real Estate

The Manager of the Department of Real Estate is hereby authorized to administer the Lease Registry and:

1. Promulgate rules and regulations governing management and operational procedures;
2. Development of notification regarding obligation to register;
3. Development of registration procedures;
4. Development of appropriate forms and instructions; and,
5. Development of enforcement procedures.

§272-8 Features to be included in Lease Registry.

The Lease Registry website shall be fully accessible to the public and include, but not be limited to, searching capabilities, and provided appropriate oil and gas lease information. All such information shall be considered to be public information and shall be available on the County's Lease Registry Website at no cost to the user.

§272-9 Search Capabilities

The Allegheny County Lease Registry Website shall have searching capabilities which shall include, but not be limited to, the ability to search by lessor, property address, block and lot number, street, and municipality.

§272-10 Categories of information

The Manager of the Department of Real Estate Allegheny County, in the administration of the Lease Registry shall include, but not be limited to gathering the following information:

1. Parcel ID Number
2. Deed book
3. Deed page
4. List of owners of record, including date sale recorded and sale price
5. Property location (street address)
6. Municipality
7. Surface property owner
8. Sub-surface property owner

9. Split Estate Y?N
10. Lessee (person who owns the oil and gas rights)
11. Lessor (person who leases the right to extract oil or gas)
12. Date of lease execution
13. Type of Lease:
 - a. Oil
 - i. Conventional
 - ii. Unconventional
 - b. Gas
 - i. Conventional
 - ii. Unconventional
14. Type of Lease:
 - a. Land lease (permits placement of well pad and other supporting infrastructure on the land surface).
 - b. Sub-surface only (permits only subsurface extraction without land surface operations placement of well pad and other supporting infrastructure on the)
 - c. Surface and subsurface lease
 - d. Royalty Lease
 - e. Gas storage lease
 - f. Provides for pipeline easements Y/N
15. Term of Lease
 - a. Perpetuity
 - b. Defined period (list start and end date of lease)
 - c. Contingent (if lease is not developed over a period of time)
16. PA Department of Environmental Protection (“PA DEP”)

- a. Date lessee applied for permit(s)
 - b. Type of permit
 - c. Date operations permit was granted
17. Successors - Once the lease is transferred/sold, or there is a new owner entity due to transfer or change of ownership (sale, bankruptcy).
18. Date leased land went into production.

§272-11 Effective Date

The effective date of this chapter shall be thirty (30) days after passage by the County Council.

After the enactment of this Chapter, the County Manager and/or the Manager of the Department of Real Estate shall provide the County Council monthly progress reports as to the promulgation of necessary rules and regulations, and as to the design and implementation of appropriate web-based forms and instructions for use.

The Department of Real Estate shall have the Lease Registry operational no later than One Hundred Eighty days (180) from the enactment of this Chapter.

SECTION 3. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance, which shall be in full force and effect.

SECTION 4. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.