

**NEWTON TOWNSHIP
ORDINANCE NO. 2013-2**

AN ORDINANCE AMENDING THE NEWTON ZONING ORDINANCE OF OCTOBER 14, 1991, AS AMENDED.

SECTION 1

ARTICLE II - DEFINITIONS

Article II, DEFINITIONS, Section 202 Specific Definitions is hereby amended as follows:

ANCILLARY FACILITY OF OIL AND/OR GAS OPERATIONS:

Ancillary Facilities of Oil and/or Gas Operations shall include Compressors, Oil and/or Gas Compressor Stations, Oil and/or Gas Metering Stations, Injection Wells and Oil and/or Gas Processing Facilities.

BUFFER AREA: A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another. For the purpose of this Ordinance when a Buffer Area is required for any Industrial Use or a Natural Resource Use, including, but not limited to, Oil and Gas Operations, it shall be deemed to represent a fence or stone wall with cork fitting, eight (8) feet in height with two staggered rows of evergreen trees planted in front of the fence with the spacing distance between trees not less than eight feet or greater than ten (10) feet. Said trees shall be not less than eight (8) feet in height at the time of planting. Unless stated otherwise, a buffer area may be part of the minimum setback distance for the land use requiring said buffer.

COMPRESSOR:

A device that raises the pressure of oil and/or natural gas and by products. Compressors are any devices that create a pressure differential to move or compress a liquid, vapor, or a gas. Any such device used alone or in series to compress a gas is considered a compressor.

GROUND VIBRATION: A technical term that is used to describe mostly man-made vibrations of the ground, in contrast to natural vibrations of the Earth studied by seismology. For example, vibrations caused by explosions, construction works, railway and road transport, etc - all belong to ground vibrations.

HYDRAULIC FRACTURING:

The underground injection of fluids and other agents which create enlarge or maintain fractures in subsurface rock to enable, improve or accelerate the recovery of oil, gas, or geothermal energy.

HYDRAULIC FRACTURING WATER WITHDRAWAL FACILITY:

A facility or facilities which may include, but which is not limited to, wells, submerged suction lines, pumps, water mains, multiple hydrants, a truck loading or staging area, and/or water storage tanks, which extracts or removes water from a surface or

groundwater system or resource and/or stores such water for use in or to assist with Hydraulic Fracturing efforts.

HYDRAULIC FRACTURING WASTE TREATMENT FACILITY:

A facility or equipment used for removing and/or treating the waste, including but not limited to fluids, generated in the process of Hydraulic Fracturing in order to extract natural gas and/or remove chemicals, compounds and radionuclides.

INDUSTRIAL USE

A use of property relating to, concerning, or arising from the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction.

INJECTION WELL:

A well through which fluids, including wastewater from drilling, are injected into an underground stratum meant for permanently disposing of a waste stream resulting from oil and/or gas operations.

OIL AND GAS ACT:

Pennsylvania's Oil and Gas Act, 58 Pa C.S. §2301 et. seq., as it has been or may be amended from time to time.

OIL AND/OR GAS COMPRESSOR STATION:

Any device, facility or use that increase(s) the pressure of a liquid, vapor or gas in a pipeline or other containment, for purposes including but not limited to the transportation of the liquid, vapor or gas within a pipeline.

OIL AND/OR GAS OPERATIONS:

This term shall include following:

1. well location assessment, including seismic operations, well site preparation, construction, drilling, hydraulic fracturing and site restoration associated with an oil and/or gas well of any depth;
2. water and other fluid storage or impoundment areas used exclusively for Oil and/or Gas operations, including but not limited injection wells intended for the permanent disposal of wastewater;
3. construction, installation, use, maintenance and repair of Oil and/or Gas Ancillary Facilities, including:
 - (a) oil and/or gas pipelines;
 - (b) oil and/or gas compressor stations; and
 - (c) oil and/or gas processing plants or facilities performing equivalent functions; and
 - (d) oil and/or gas metering stations or facilities performing equivalent functions
- (4) construction, installation, use, maintenance and repair of all equipment directly associated with activities specified above under items (1), (2) and (3).

OIL AND/OR GAS METERING STATIONS:

A facility containing equipment including, but not limited to, gauges, valves and/or communications equipment, which regulates and/or measures the volume, pressure, and other characteristics of oil and/or natural gas in, entering or exiting an Oil and/or Gas Pipeline.

OIL AND/OR GAS PIPELINES:

All parts of those fixed location physical facilities through which oil and/or natural gas moves in transportation, including pipe, valves, and other appurtenances attached to pipes, except those above-ground structures otherwise regulated under this Ordinance.

OIL AND/OR GAS PROCESSING FACILITY:

Any facility other than an Oil and/or Gas Compressor Station or Oil and/or Gas Metering Station which alters the chemical or physical properties of oil and/or natural gas or refines oil or natural gas and segments it into distinct commodities.

OIL AND/OR GAS WATER REUSE STORAGE FACILITY:

Tanks of any construction (metal, fiberglass, concrete, etc.) and impoundments used for the storage of Hydraulic Fracturing wastewater and/or water that has been used in Oil and/or Gas Development and is being reused.

OIL AND/OR GAS WELL:

Any well drilled for the purpose of, or capable of being used to, extract gas, petroleum or other liquid related to Oil and/or Gas production from beneath the surface of the earth.

OIL AND/OR GAS WELL OPERATOR:

The person designated as the well operator on the permit application or well registration.

OIL AND/OR GAS WELL OWNER:

A person, who owns, manages, leases, controls or possesses an Oil and/or Gas well.

OIL AND/OR GAS WELL SITE:

A specifically defined location with fixed dimensions which may include facilities, structures, materials and equipment, whether temporary or permanent, necessary for or incidental to the preparation, construction drilling or production of an Oil and/or Gas Well as further identified in any application submitted to or approved by the Pennsylvania Department of Environmental Protection.

MINERALS,

Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

NATURAL RESOURCE USE:

The removal or recovery by any mean whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water, land, on or beneath the surface

thereof; said substances including but not limited to coal, limestone, shale, dolomite, sandstone, sand, clay, gravel, rock, stone, earth, peat, soil, ore or other mineral shall be classified as a Natural Resource Use.

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE:

The Newton Township Subdivision and Land Development Ordinance as enacted on April 12, 1993, as it has been or may be amended from time to time.

WATER IMPOUNDMENT, FRESH:

A depression, excavation, pit, or facility situated in or upon the ground at an Oil and/or Gas Well Site, Hydraulic Fracturing Waste Treatment Facility or Hydraulic Fracturing Water Withdrawal Facility, whether natural or artificial and whether lined or unlined, used to store fresh water for uses related to Oil and/or Gas Development.

WATER IMPOUNDMENT, WASTE:

A depression, excavation, pit, or facility situated in or upon the ground, whether natural or artificial and whether lined or unlined, used to store waste water including but not limited to brine, fracturing fluid or residual waste.

WETLANDS:

Those areas that are inundated or saturated by the surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

ROAD-INTENSIVE USES: Natural Resource Uses, including but not limited to Oil and/or Gas Operations, shall be deemed to be “**Road-Intensive Uses**” Any party that owns, operates, manages or otherwise controls a Road-intensive Use shall be designated a “Road-intensive Use Operator”.

SECTION 2

Article III, Establishment of Districts, Section 313, Natural Resource Uses and Open Excavations, and all subsections thereunder are hereby amended to read as follows:

313 Natural Resource Uses and Open Excavations

Natural Resource Uses shall be permitted as a Conditional Use in all zoning districts, excluding R-1 Districts and shall comply with all applicable requirements as well as the standards in this Section 313 and this Ordinance. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

Natural resource uses with an open face of 25,000 square feet or less and which will not result in a total disturbed area of 43,560 square feet over the life of the site, and which do not involve the on-site use of any processing or manufacturing equipment shall be hereinafter referred to as “minor natural resource uses.” The duration of the minor natural resource use removal process shall not exceed 180 days and reclamation of the entire site shall be completed within one year of the issuance of the conditional use

approval. Minor Natural Resource Uses shall be exempt from the Plan Submittal requirements of this Section; however, said operation shall comply with the operational and rehabilitation standards of this Section 313.

313. 1 Operational Requirements

- A. Vibration - No use, activity and/or operation shall generate vibration that is perceptible to an average person through their senses, without the use of measuring instruments, on property beyond the exterior lot lines of the use generating a vibration.
- B. Blasting – blasting shall be conducted in accordance with state regulations. However no blasting shall be permitted in association with a minor natural resource use.
- C. Emissions – the emissions of dust, refuse matter, odor, gas, fumes or similar substances or conditions which can cause any soiling, staining, irritation, or damage to persons or property at any point beyond the property line of the use creating the emission are hereby prohibited.
- D. Fencing – the applicant shall submit to the Township for approval by the Board of Supervisors a fencing plan which shall provide for the protection of the public health safety and general welfare by restricting public access. The Township shall determine the type and extent of fencing required as part of the conditional use process. However in no case shall any fence be less than 6 feet in height and all required fencing shall be of such designed to restrict access. In all cases, fencing shall be required when ever the natural resource use abuts a public right-of-way or whenever the slope of the excavation exceeds a slope of greater than 1:1. All fence openings to provide access to the site shall be controlled by a gate and locks.
- E. Minimum Lot Size/Setbacks/Buffers – For any Natural Resource Use that is not classified as a Minor Natural Resource Use shall require a minimum lot size of not less than 25 acres. In this Section, the setbacks and buffer areas, as so defined in this Ordinance, shall be considered the minimum requirements. The Township as part of the conditional use process and in accord with Section 316 shall require larger setbacks, buffers and fencing in cases where the site of the operation, the topography, vegetation or other physical features of the site uses on adjoining properties or other public concerns dictate the same.
 - 1. Residential – When adjacent to a Residential District or existing residence, no stockpiles, waste piles, processing or manufacturing equipment, subsurface mine entry location or facilities, and no part of the open face shall be located closer then 500 Feet to such Residential District.

2. Street – From the right-of-way line of a public street or highway no part of a quarrying or excavating operation shall be closer than 100 feet.
 3. General Property Line Setbacks – no part of a quarry being or excavating operation shall be closer than 100 feet to any other property line.
 4. Minor Natural Resource Use Setbacks – The setbacks in Subsection 1, 2, and 3 above may be reduced in the case of a minor natural resource use; however setbacks for minor natural resource uses shall be, at minimum, increased to two (2) times the normal setbacks required for principal permitted uses for the subject District has provided in the Schedule of Development Regulations.
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- F. Water Resources – In no case shall any use impede the flow of the natural watercourses, and all uses or processes which pollute water sources shall be prohibited. Collection of water in any excavation or quarry shall be avoided except as necessary for soil sedimentation control, and the Township shall require the developer to provide storm water management facilities to control drainage to excavated areas. Any ponds or other standing water shall not be permitted to become stagnant. Water quality testing shall be required prior to the commencement of any excavation or quarrying activities. The applicant shall submit a copy of a water quality test by an independent water testing lab for all water sources including water wells, developed springs, and surface waters within 2,000 feet of a proposed excavation site or quarry site. The water quality test, designed to determine the overall water quality at the water source shall establish and include:
1. Baseline information on the types of macro invertebrates.
 2. A quantitative macro invertebrate survey.
- G. Lot Coverage – disturbed areas of the minor natural resource use shall not exceed the maximum lot coverage of the subject District as required for principal permitted uses in the Schedule of Development Regulations.
- H. Subsidence – All mining operations shall be conducted in such a manner to prevent any subsidence of the surface of the site.
- I. Hours of Operation - All Natural Resource Uses shall be limited to operating hours of 7 AM to 7 PM, excluding Sundays and all legally recognized holidays by the federal government and/or the Commonwealth of Pennsylvania.
- J. Lights: All exterior light sources shall be directed downward and located and designed in a manner to prohibit spillage of illumination beyond the

property line. All exterior lighting shall be designed so the filament, light sources or lenses are shielded with opaque material.

K. Soil Testing - Any Natural Resource Use shall be required to provide on-site and off-site soil testing, for regulated organic and inorganic substances having defined Medium Specific Concentrations (MSCs) in statewide health standards as published in the PA Bulletin on January 8, 2011, or any subsequent revisions. The off-site testing shall be for land within two thousand (2,000) feet of the exterior lot lines of the proposed Natural Resource Use. The applicant shall submit the above information to the Township prior to the commencement of any activities and/or operations related to the proposed Natural Resource Use.

L. Water Quality Test:

The applicant shall submit to the Township a copy of a water quality test on all water wells, developed springs, and surface waters, within two thousand (2,000) feet of the exterior lot lines of the proposed Natural Resource Use prior to the commencement of any activities and/or operations related to the same. The required water testing shall at minimum be for the following substances:

Analyte (Inorganic)	Analyte (Trace Metal)	Analyte (Organic)
Alkalinity	Barium	Ethane
Chloride	Calcium	Methane
Conductivity	Iron	
Hardness	Magnesium	Analyte (Microbiology)
Oil and Grease	Manganese	Total Coliform/E. coli
pH	Potassium	
Sulfate	Sodium	
Total Dissolved Solids	Strontium	
Residue – Filterable		
Total Suspended Solids		
Residue – Non Filterable		

M. Air Quality - All operations shall comply with the existing governing standards for air quality as set forth by DEP or the EPA, with the more restrictive standards applicable. In any case, no emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any soiling.

N. Noise - The applicant of any proposed Natural Resource Use shall take the following steps to minimize potential noise resulting from the subject operation.

1. Prior to the commencement of any use, activity and/or operation upon the property of a Natural Resource Use, the applicant shall establish the continuous seventy-two hour weekday and forty-eight

hour weekend ambient noise for all frequencies at all boundaries of the subject property with prior approval of the testing times and dates by the Board of Supervisors.

2. Measurement Equipment - All noise level measurements shall be made using a sound level meter meeting the most current American National Standard Specification for Sound Level Meters (ANSI 1.4- not less than Type 2 instruments). The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements shall be taken using the FAST response time and A-weighting.
 3. The applicant shall provide the Township documentation, satisfactory in form and substance to the Township, of the established ambient noise level prior to the commencement of any use, activity or operation any proposed Natural Resource Use.
 4. Between the hours of 7 PM and 7 AM (local time), the decibel level shall not exceed ambient noise level that was established under item b any point outside the boundaries of the property by more than 3 decibels.
 5. Between the hours of 7 AM and 7 PM (local time), the decibel level shall not exceed ambient noise level that was established under item b any point outside the boundaries of the property of a Natural Resource Use by more than 5 decibels.
- O. Smoke - No open burning of any materials shall be conducted upon the property. No emission shall be permitted from any chimney or otherwise which exceeds current EPA or DEP emission standards.
- P. Odors - No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the parcel from which the odors are emitted to persons of average sensitivities.
- Q. Dust - No dust that is significantly offensive to persons of average sensitivities shall be permitted to beyond the boundaries of the subject property.

313.2 Submission of Operational Data for Natural Resource Uses

The operations plan shall include, but need not be limited to:

- A. Ownership and acreage of the land proposed for use shall be included upon a certified property boundary survey.

- B. Types of resources to be extracted or quarried, method of excavation, sequence of construction and excavation activities, and estimated amount.
- C. Topographic map of the property showing, at a minimum, two (2) foot contours, the change in natural grade and the estimated depth of the proposed operation.
- D. Location map at a scale of 1 inch = 100 feet which shall show:
 - 1. The land area to be excavated or quarried with dimensions of the total property.
 - 2. Private access roads and abutting streets and highways.
 - 3. Abutting and/or adjacent districts and land uses.
 - 4. Existing water sources, and proposed alterations to ensure stream quality and quantity.
 - 5. Fencing – details of the size and type of fencing shall be provided.
 - 6. Title, scale, north arrow and date.
 - 7. Ownership.
- E. Truck Traffic on Township Roads: All natural resource uses shall be Road Intensive Uses which shall be subject to the following provisions:
 - 1. The operator of a Road-Intensive Use, and its successors and assigns, shall be liable for the full and complete repair and restoration of all damages of whatever nature to all Township roads directly caused by truck hauling from the Road-Intensive Use in excess of any usual and customary damage attributable to normal and general vehicular use. Notwithstanding the provisions contained in Ordinance No. 2011-1 and those contained herein relating to an excess maintenance agreement and the bonding of the Road Intensive Use Operator's performance thereof, should the Road-Intensive Use Operator, its successors and assigns, fail to repair and restore fully and completely such road repair and restoration of damages to Township roads attributable to the Road-Intensive Use, the Township reserves the right to proceed against the operator, its successors and assigns, by the commencement of an action in law or equity seeking payment of the entire cost of such repair and restoration of road damage, including, but not limited to, all costs of suit and reasonable attorney fees. Should there be any conflict in the provisions contained Ordinance No. 2011-1 and this Ordinance, the more restrictive shall apply.

2. The Road-intensive Use Operator shall disclose the proposed routes of all trucks and other heavy equipment to be utilized for the Road-intensive Use and the estimated weights of those trucks and/or heavy equipment associated with such activity. The Township reserves the right to designate alternate routes in the event that the Road-Intensive Use Operator's proposed routes are determined by the Township Engineer to be inadequate, unsafe, or overly disruptive to normal vehicular traffic.
3. Before the commencement of any Road-Intensive Use, the Road Intensive Use Operator shall conduct an on-site inspection of all Township roads to be utilized for truck hauling to and from the Road-intensive Use. Any on-site inspection of roads shall include Township representatives designated by and including the Board of Supervisors and the Township Engineer. Upon the basis of the inspection, the Township Engineer and the Road Intensive Use Operator shall prepare a detailed report documenting the existing structural condition of the road and a traffic study which includes a traffic count of vehicular use which distinguishes car and truck traffic with the dates and duration of the same established by the Board of Supervisors. Said traffic count shall be deemed to represent the usual and customary vehicular traffic upon said road. Photographs and video tapes will be taken to substantiate the report. Copies of the inspection report, photographs, and/or video tapes will be made available to the Road-intensive Use Operator and the Township.
- 4.. The Road-Intensive Use Operator shall plan or design all proposed hauling routes to minimize the use and impact of such truck hauling upon Township roads wherever feasible.
5. The Road-Intensive Use Operator shall produce evidenced satisfactory to the Township Engineer that all intersections along proposed hauling routes provide a sufficient turning radius for trucks to be utilized for hauling so that all turns can be safely made without damage to vehicles, sidewalks, curbs or surrounding property.
6. All Township roads used by the Road-intensive Use Operator for truck and/or equipment hauling for the Road Intensive Use will be kept and restored to the same or similar condition during and after such activity. The Road-Intensive Use Operator shall provide a traffic count of vehicular use which distinguishes car and truck traffic upon Township roads used for the duration of the Natural Resource Use and shall provide such records to the Township on a weekly basis. Accordingly, prior to any Road Intensive Use, the Township and the Road-intensive Use Operator shall enter into an excess maintenance agreement, in a form acceptable to the Township, in order to guarantee the repair and the restoration of

any Township road(s), which may be determined in the professional opinion of the Township Engineer founded, in whole or in part, on the inspection report and the graphic documents in support of the inspection report, to be subject to damage as a result of and in the course of traffic generated by truck and/or equipment hauling from such activity. In the excess maintenance agreement, the Road-Intensive Use Operator must assume explicitly its responsibility to repair and restore any Township road determined to be damaged as a result of traffic generated by truck and/or equipment hauling from the Road Intensive Use and in excess of the usual and customary extent based upon the traffic due to general vehicular use. The reasonable professional opinion of the Township Engineer as to damage(s) shall prevail hereunder.

7. In addition to the aforesaid excess maintenance agreement and to secure the performance thereof, the operator shall post a bond or other financial security in favor of the Township and in a form acceptable to the Township. The principal of the bond shall be determined by the Township Engineer acting on behalf of the Township. The bond to be posted by the operator may be in a principal sum in excess of otherwise applicable as established in Ordinance No. 2011-1 when the Township Engineer has reasonably estimated that the cost of the repair and restoration of Township roads will exceed the prevailing PennDOT bonding limits.
8. The Road-Intensive Use Operator is responsible for the satisfactory and complete repair and restoration of damaged roads, as above determined, before the excess maintenance agreement can be terminated and the security released.
9. Notwithstanding any other provision herein set forth, the Road-Intensive Use Operator shall, at all times, utilize the Township roads only in a manner that permits unobstructed and safe passage for other members of the traveling public. The Road-Intensive Use Operator shall covenant in the excess maintenance agreement to make immediate repair of any conditions on the road attributable to its use for truck hauling to and from a Road-Intensive Use, which restricts use of the road by the traveling public or causes or contributes to an unsafe condition, including the removal of mud and dirt from the road.
10. Where truck traffic generated by Road-Intensive Use exceeds five trips per hour within 200 feet of a school bus stop, the Road-Intensive Use Operator will provide flagmen to ensure the safety of children waiting for or leaving school buses.
11. Access of Road-Intensive Use roads directly to State roads shall require Pennsylvania Department of Transportation (PADOT)

Highway Occupancy Permit approval. Prior to initiating any work at a Road-intensive Use, the Township shall be provided a copy of the Highway Occupancy Permit.

F. Private Access Roads

1. All private roads shall be gated in a manner at the entrance to prevent illegal access. An address shall be clearly visible on the access gate for emergency response purposes. In addition, the sign shall include the name of the applicant and the telephone number for a person responsible who may be contacted in case of emergency. The gate shall be located not greater than 100 feet from its property line. In cases where the required gate is not located at property line, the aforementioned sign shall be included at the both the entrance to the property and upon the gate.
2. Any access road beginning with its intersection with a public right-of way shall be paved for the first one hundred (100) and be constructed with an additional one hundred fifty (150) feet of limestone in a manner that would reasonably minimize water, sediment or debris carried onto any public road. If the access road or access way is less than two hundred (200) feet in length, the entire access road or access way shall be paved. Compliance with above requirements must occur prior to the use of the access road.
3. All private roads shall be constructed and maintained to prevent dust and mud from the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulphur water or water in mixture with any type of hydrocarbon be used for dust abatement.

313.3 Rehabilitation and Reclamation Plan for Natural Resource Uses

At the time the operation plan is submitted, a rehabilitation and reclamation plan shall also be submitted setting forth the following information:

- A. An engineering drawing showing ownership, existing and future topography, streams, roads, buildings, boundaries, and legal description of the tract.
- B. A description of the location, extent, benefits, and time schedule for the operations proposed.
- C. A drawing showing the location and/or proposed locations of land, trees, buildings, structures, public roads, streams, drainage facilities and utility line on the track or adjacent tracks as may require protection, repairs, clearance, demolition, restoration either during or following the completion of the operations proposed.

- D. An Emergency Response Plan shall be required prior to the commencement of any operations or activities. The Emergency Response Plan shall describe the methods for handling operations with respect to the “Operation Requirements,” plus any drainage, air pollution, soil erosion, soil contaminants, water contaminants, or other environmental problems created during the operation including production, transportation, processing, stockpiling, storage and disposal of byproducts and waste. Not less than 60 days prior to any operations, the applicant shall, at its sole cost and expense, provide to Emergency Responders, complete site orientation with complete information and training on dealing with any potential dangerous conditions that may result from excavation and/or quarrying operations. Emergency Responders shall be provided with a complete, detailed list and location of all gases, chemicals, waste products and hazardous material produced, stored and maintained on the site.
- E. A detailed plan for reuse of the land after completion of the operations which shall provide for the restoration of the site in accord with this Ordinance and appropriately provide for any restoration, reclamation, reforestation, or other correction were the necessary. The plan shall include the types and density or number of trees and other vegetative plantings.
- F. A Natural Resource use shall be subject to all applicable provisions of the Newton Township Subdivision and Land Development Ordinance. A soil erosion and sedimentation control plan and a stormwater control plan meeting the requirements of the County Conservation District. In no case shall the posts development storm water dish charge from the property exceed the pre-development discharge.

313.4 General Rehabilitation – Reclamation Requirements and Standards for Natural Resource Uses.

- A. Time – within a timeframe approved by the Board of Supervisors, but in no case to exceed one year after the termination of operations, the area shall be rehabilitated to conform to the rehabilitation plan as approved.
- B. Standards – in the rehabilitation of an area the following standards shall be met:
 1. No area of rehabilitation shall exceed a slope of 2:1.
 2. The entire area disturbed by resource excavating, quarrying, mining or other natural use shall be planted in such a manner so as to control soil erosion.
 3. The entire area shall be created wherever necessary to provide for the conveyance of storm water. Finished grade shall not have a slope of less than two (2) percent so as to provide for a natural drainage.
 4. Stockpiles, overburden, refuse, plant facilities or equipment shall be removed immediately upon the termination of operations and in no case shall such removal exceed six (6) months.

5. Required buffers, plantings or fencing shall be continuously maintained in good repair.

313.5 Existing Natural Resource Uses

Operations existing prior to the effective date of this Ordinance which are nonconforming as to setback requirements, shall not be required to correct such existing non-conformity. A rehabilitation plan and performance guarantee and any required fencing and/or buffers shall be provided within six months after the effective date of this Ordinance as amended. A plan meeting the requirements of this Section 313, four existing natural resource uses shall be submitted to the Township within three (3) months of the effective date of this ordinance, as amended.

313.6 Non-Conforming Uses

Expansion of any natural resource use which is nonconforming as related to minimal dimensional and setback requirements shall be limited to the specific type of existing non-conformity, and any expansion to include natural resource use processing use (s) such as, but not limited to, stone crushers, cement plants and asphalt plants, shall not be permitted.

313.7 Performance Guarantee

Prior to the approval of a plan for any natural resource use, the applicant shall provide to the Township a bond, or letter of credit or other performance guarantee in the form and amount approved by the Township to ensure the reclamation and rehabilitation of any new or existing natural resource use the term of the guarantee shall be appear shall be for a period of one year in excess of the time established in section 313.4. Any Natural Resource Use, which will be in operation for a period of more than one year, shall be required to have the subject bond, letter of credit or other performance guarantee renewed every three years beyond the initial start date to ensure the amount is adequate for the required reclamation and rehabilitation work. Both the initial a bond, or letter of credit or other performance guarantee and any renewal thereof shall be equal to 110% of the estimated cost as reviewed and recommended by the Township Engineer. With regard to liability insurance, the applicant shall be required to name Newton Township as an additional insured party.

313.8 Sections

Nothing herein shall prohibit the development of a natural resource use in phases or sections, for the purposes of performance guarantees. However, the plan submitted shall include the details of the complete proposed use to include all sections, with the performance guarantee provided for each section prior to development of same.

313.9 Oil and Gas Operations

Oil and Gas Operations, as listed below, shall be deemed to be a Natural Resource Use, which and shall be governed by the provisions and requirements set forth Section 313, and all subsections hereunder unless stated otherwise:

1. well location assessment, including seismic operations, well site preparation, construction, drilling, hydraulic fracturing and site restoration associated with an oil and/or gas well of any depth;
2. water and other fluid storage or impoundment areas used exclusively for Oil and/or Gas operations.
3. construction, installation, use, maintenance and repair of Oil and/or Gas Ancillary Facilities, including:
 - (a) oil and/or gas pipelines;
 - (b) oil and/or gas compressor stations; and
 - (c) oil and/or gas processing plants or facilities performing equivalent functions; and
 - (d) oil and/or gas metering stations or facilities performing equivalent functions
4. construction, installation, use, maintenance and repair of all equipment directly associated with activities specified above under items (1), (2) and (3).

313.10 Gas Well

A Gas Well as so defined by this Ordinance shall be governed by any standards and provisions provided herein:

- A. A gas well shall maintain the following minimum setback distances from the wells, bodies of water streams and wetlands.
 1. A gas well shall not be located less than 500 feet and for an unconventional gas well it shall not be located less than 1,000 feet of the entire well bore length from any existing water well, surface intake reservoir, or other water supply extraction point of a water purveyor, unless a waiver has been given by a water purveyor and approved by the Township and The Department of Environmental Protection.
 2. A gas well shall not be located less than 300 feet from a wetlands exceeding one (1) acre in size, nor shall the edge of any disturbed area be less than 100 feet from the subject wetlands.
 3. A gas well shall not be located less than 300 feet measured horizontally from any solid blue lined stream as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey, nor shall the edge of any disturbed area be less than 100 feet from the subject stream.
- B. Minimum Lot Size: 25 Acres.

- C. A wellhead shall not be located less than 500 feet and for an unconventional gas well it shall not be located less than 1,000 feet of the entire well bore length from any existing building.
- D. **Required Buffer:** A Buffer Area, as defined in Article 2, not less than seventy-five (75) feet shall be provided along all property lines. The Board of Supervisors may take into consideration the topographic features and existing natural vegetation which may provide natural buffering to adjoining areas. Buffer Areas shall be considered improvements for the purposes of guaranteeing installation in accordance with the requirements for land developments in the Newton Township Subdivision and Land Development Ordinance. It shall be the responsibility of the applicant to maintain all Buffer Areas in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- E. **Noise:** The noise level shall comply with Section 316.18 of this Ordinance, excluding drilling operations.
- F. **Parking and Staging Areas:** The required amount of off-street vehicle parking shall be equal to not less than 75% of the maximum number of the applicant's employees, subcontractors, and agents working and/or residing on the property at any given time during the construction of a well.

Unless stated otherwise, said parking areas shall comply with all applicable standards set forth in Section 312 (Off-Street Parking and Loading) of this Ordinance.

All vehicle parking areas and staging areas shall be setback not less than 100 feet from any property line.

No vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.

- G. **Lights:** Outside lighting shall be directed away from adjacent properties, and shall be turned off except when personnel are working on site or motion sensors are activated.
- H. **Signage, Site Identification:** At the entrance gate to each property on which a gas well is located, and at the point where the access road intersects with the Township, County or State owned road and There shall be signage clearly posted and visible posted that includes the following information:
 - a. Applicant name
 - b. Unit name
 - c. Township assigned address
 - d. Emergency contact phone number

If the entrance gate is located at the point of intersection with a public road, the required signage shall only be required upon the gate. This information shall be updated from time to time to ensure the information is always accurate and current.

- I. Vibration: Compliance with section 316.5 of this Ordinance shall be required.
- J. Subdivision and Land Development: Compliance with applicable provisions of the Newton Township Subdivision and Land Development Ordinance shall be required only to the extent such provisions are not in conflict with Chapter 32, Section 3302 and Section 3303 of the Act and/or the provisions of the MPC.

313.11 Impoundment Facility

- A. Water and other fluid storage or impoundment areas used exclusively for Oil and/or Gas operations shall be so located in a manner that the outer edge of any portion of the subject storage or impoundment area is not less than 300 feet to the nearest existing building.
- B. Minimum Lot Size: 25 Acres, when developed as a separate principal use upon a property.
- C. Required Buffer: A Buffer Area, as defined in Article 2, not less than seventy-five (75) feet shall be provided be along all property lines. The Board of Supervisors may take into consideration the topographic features and existing natural vegetation which may provide natural buffering to adjoining areas. Buffer Areas shall be considered improvements for the purposes of guaranteeing installation in accordance with the requirements for land developments in the Newton Township Subdivision and Land Development Ordinance. It shall be the responsibility of the applicant to maintain all Buffer Areas in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- D. Noise: The noise level shall comply with Section 316.18 of this Ordinance.
- E. Parking and Staging Areas: The required amount of off-street vehicle parking shall be equal to not less than 75% of the maximum number of the applicant's employees, subcontractors, and agents working and/or residing on the property on which the impoundment facility is located.

Unless stated otherwise, said parking areas shall comply with all applicable standards set forth in Section 312 (Off-Street Parking and Loading) of this Ordinance.

All vehicle parking areas and staging areas shall be setback not less than 100 feet from any property line.

No vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.

- F. Lights: Outside lighting shall be directed away from adjacent properties, and shall be turned off except when personnel are working on site or motion sensors are activated.

- G. Signage, Site Identification: At the entrance gate to each property on which an the impoundment facility is located, and at the point where the access road intersects with the Township, County or State owned road and There shall be signage clearly posted and visible posted that includes the following information:.
 - a. Applicant name
 - b. Unit name
 - c. Township assigned address
 - d. Emergency contact phone number

If the entrance gate is located at the point of intersection with a public road, the required signage shall only be required upon the gate. This information shall be updated from time to time to ensure the information is always accurate and current.

- H. Vibration: Compliance with section 316.5 of this Ordinance shall be required.

- I. Subdivision and Land Development: Compliance with applicable provisions of the Newton Township Subdivision and Land Development Ordinance shall be required only to the extent such provisions are not in conflict with Chapter 32, Section 3302 and Section 3303 of the Act and/or the provisions of the MPC.

313.12 Compressor Station

- A. A compressor station shall be located not less than 750 feet to the nearest existing building or 200 feet from the nearest lot line, whichever is greater.

- B. A compressor station and any other power driven equipment shall utilize sparkless electric motors. All electrical installations and equipment shall conform to Township ordinances and the Pennsylvania Uniform Construction Code.

- C. Minimum Lot Size: 25 Acres, when developed as a separate principal use upon a property.

- D. Required Buffer: A Buffer Area, as defined in Article 2, not less than seventy-five (75) feet shall be provided be along all property lines. The Board of Supervisors may take into consideration the topographic features and existing natural vegetation which may provide natural buffering to

adjoining areas. Buffer Areas shall be considered improvements for the purposes of guaranteeing installation in accordance with the requirements for land developments in the Newton Township Subdivision and Land Development Ordinance. It shall be the responsibility of the applicant to maintain all Buffer Areas in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

- E. Noise: The noise level shall comply with Section 316.18 of this Ordinance.
- F. Parking and Staging Areas: The required amount of off-street vehicle parking shall be equal to not less than 75% of the maximum number of the applicant's employees, subcontractors, and agents working and/or residing on the property at any given time on the property on which the compressor is located.

Unless stated otherwise, said parking areas shall comply with all applicable standards set forth in Section 312 (Off-Street Parking and Loading) of this Ordinance.

All vehicle parking areas and staging areas shall be setback not less than 100 feet from any property line.

No vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.

- G. Lights: Outside lighting shall be directed away from adjacent properties, and shall be turned off except when personnel are working on site or motion sensors are activated.
- H. Signage, Site Identification: At the entrance gate to each property on which a compressor is located, and at the point where the access road intersects with the Township, County or State owned road and There shall be signage clearly posted and visible posted that includes the following information:
 - a. Applicant name
 - b. Unit name
 - c. Township assigned address
 - d. Emergency contact phone number

If the entrance gate is located at the point of intersection with a public road, the required signage shall only be required upon the gate. This information shall be updated from time to time to ensure the information is always accurate and current.

- I. Vibration: Compliance with section 316.5 of this Ordinance shall be required.
- J. Subdivision and Land Development: Compliance with applicable provisions of the Newton Township Subdivision and Land Development Ordinance shall be required only to the extent such provisions are not in

conflict with Chapter 32, Section 3302 and Section 3303 of the Act and/or the provisions of the MPC.

313.13 Processing Plants

- A. A Processing Plant shall be located not less than 750 feet to the nearest existing building or 200 feet from the nearest lot line, whichever is greater.
- B. Minimum Lot Size: 25 Acres, when developed as a separate principal use upon a property.
- C. Required Buffer: A Buffer Area, as defined in Article 2, not less than seventy-five (75) feet shall be provided be along all property lines. The Board of Supervisors may take into consideration the topographic features and existing natural vegetation which may provide natural buffering to adjoining areas. Buffer Areas shall be considered improvements for the purposes of guaranteeing installation in accordance with the requirements for land developments in the Newton Township Subdivision and Land Development Ordinance. It shall be the responsibility of the applicant to maintain all Buffer Areas in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

D. Noise: The noise level shall comply with Section 316.18 of this Ordinance.

E. Parking and Staging Areas: The required amount of off-street vehicle parking shall be equal to not less than 75% of the maximum number of the applicant's employees, subcontractors, and agents working and/or residing on the property at any given time on the property on which the processing plant is located.

Unless stated otherwise, said parking areas shall comply with all applicable standards set forth in Section 312 (Off-Street Parking and Loading) of this Ordinance.

All vehicle parking areas and staging areas shall be setback not less than 100 feet from any property line.

No vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.

G. Lights: Outside lighting shall be directed away from adjacent properties, and shall be turned off except when personnel are working on site or motion sensors are activated.

H. Signage, Site Identification: At the entrance gate to each property on which a processing plant is located, and at the point where the access road intersects with the Township, County or State owned road and There shall

be signage clearly posted and visible posted that includes the following information:.

- a. Applicant name
- b. Unit name
- c. Township assigned address
- d. Emergency contact phone number

If the entrance gate is located at the point of intersection with a public road, the required signage shall only be required upon the gate. This information shall be updated from time to time to ensure the information is always accurate and current.

- I. Vibration: Compliance with section 316.5 of this Ordinance shall be required.
- J. Subdivision and Land Development: Compliance with applicable provisions of the Newton Township Subdivision and Land Development Ordinance shall be required only to the extent such provisions are not in conflict with Chapter 32, Section 3302 and Section 3303 of the Act and/or the provisions of the MPC.

SECTION 3

Article III, Establishment of Districts, Section 314, Buffer for bodies of water and Wetlands, and all subsections thereunder are hereby amended to read as follows:

314 Buffer for Bodies of Water and Wetlands

314.1 Plans

All bodies of water and streams shall be accurately shown on any plan submitted with any application for zoning approval. The Planning Commission, Board of Supervisors, Zoning Hearing Board or Zoning Officer, as the case may be, may also require that wetlands be shown on the plans where U.S.G.S. Topographical or U. S. F. W. Wetland maps or a site inspection indicate wetlands may be present.

314.2 Bodies of Water

For the purpose of protecting water quality a buffer zone/building setback of not less than 100 feet shall be maintained from the top of the bank of any body of water or on each side of any strain. No building, structures (except uncovered docks), roads, parking areas, sewage disposal system, industrial use, natural resource use or other impervious surfaces shall be constructed were placed within this buffers, except for approaches to approve stream crossings. Docs shall not extend landward for more than 5 feet from the water's edge. In residential subdivisions this strip shall be protected via a protective easement. In such cases where the Township floodplain regulations require larger buffers, such regulations shall control.

314.3 Wetlands

Wetlands shall be governed by all applicable state and federal regulations and a buffer zone/building setback of not less than 100 feet shall be maintained from any wetlands that is 20,000 square feet or more in size. No buildings, structures, roads, parking areas, sewage disposal systems or other impervious surfaces shall be constructed or placed within this buffer zone, except for approaches to approved wetland in stream crossings.

The applicant shall certify to the Township that the wetlands have been accurately delineated; and, if none exist on the site shall so certified. The Township shall also have the right to require the applicant to obtain U.S. Army Corps of Engineers service confirmation of said delineation. The applicant shall provide copies of any federal, state or local permit required as related to certification of wetlands.

SECTION 4

Article III, Establishment of Districts, Section 315, Conditional Uses and Special Exceptions, and all subsections thereunder are hereby amended to read as follows:

315 Conditional Uses and Special Exceptions

315.1 Applications

Applications for conditional uses and special exceptions shall at minimum include a plan containing the information required for major subdivisions as set forth by the Township's Subdivision and Land Development Ordinance. The Township planning commission or Board of Supervisors shall require any other information deemed necessary for the review of the proposal.

315.2 Conditional Uses

Uses specified as conditional uses shall be permitted only after review and approval pursuant to the express standards as provided for specific conditional uses in this Ordinance and in Section 315.4 and any other applicable standards in this Ordinance. Upon determining that an application for a specific use may only be considered as a conditional use under the terms of this Ordinance, zoning officer shall forward a copy of said application, along with the required supporting data, to the Township Planning Commission. The Planning Commission shall review the application and a public meeting and shall report its findings, together with a recommendation indicating whether the criteria listed in this Section 315 and any other applicable performance standards have been satisfied.

Upon receipt of the conditional use application and the recommendation of the Planning Commission, the Township Board of Supervisors shall conduct a public hearing pursuant to public notice and shall grant or deny the application. The Board of Supervisors shall provide notice of the public hearing to all property owners whose property is located within one thousand two hundred fifty (1,250) feet of the project parcel. If the application is granted, the Board of Supervisors shall direct the zoning officer, in writing, to issue a

permit for the same attaching any conditions of approval as authorized by the Pennsylvania Municipalities Planning Code and the standards of this Ordinance, and as established by the Board of Supervisors and deemed necessary by the Board to protect the public health, safety and welfare and otherwise fulfill the purposes of this Zoning Ordinance. If this application is denied the applicant shall be notified of the action in person or by certified mail; such notice shall include the specific reasons for denial.

315.3 Special Exceptions

Uses specified as special exceptions shall be permitted only after review and approval by the Township zoning hearing board pursuant to the express standards has provided for specific special exceptions in this Ordinance and in Section 315.4.

Upon determining that an application for specific use may only be considered as a special exception under the terms of this Ordinance, the Zoning Officer shall forward a copy of said application, along with the required supporting data, to the Township Zoning Hearing Board and the Planning Commission. The planning commission shall review the application and shall make recommendations to the Zoning Hearing Board prior to the public hearing.

Upon receipt of the special exception application to the Zoning Hearing Board shall conduct a public hearing pursuant to public notice and in accord with Section 908 of the Pennsylvania Municipalities Planning Code. The Zoning Hearing Board shall provide notice of the public hearing to all property owners whose property is located within one thousand two hundred fifty (1,250) feet of the project parcel. The Zoning Hearing Board shall consider the application in terms of the criteria listed in this Section 315 and any other applicable performance standards in this Ordinance, and shall grant or deny the application. If the application is granted, the Zoning Hearing Board shall attach any conditions of approval as authorized by the Pennsylvania Municipalities Planning Code to protect the public health, safety and welfare and otherwise fulfill the purposes of this Zoning Ordinance.

The decision of the Zoning Hearing Board shall be rendered and notification to the applicant shall be provided in accord with Section 908 of the Pennsylvania Municipalities Planning Code.

315.4 Standards and Criteria

The standards and criteria applied to conditional uses and special exceptions are intended to ensure that the proposed use will be in harmony with the purposes, goals, check this and standards of this Ordinance and other ordinances of Newton Township. In addition to the applicable general provisions of this Ordinance and the standards provided in this Ordinance for specific conditional uses and special exceptions, the following standards and criteria shall be applied in the review of applications for conditional uses and special exceptions.

- A. The proposed use shall be in harmony with purposes, goals, objectives and standards of the Newton Township Comprehensive Plan.

- B. There shall be a community need for the proposed use at the proposed location. Need shall be assessed in light of existing and proposed use of a similar nature in the area and an active to provide or maintain a proper mix of uses within the Township and, more specifically, that portion of the Township in the immediate area of the proposed use. The proposed use in the proposed location shall not result in either a detrimental over concentration of a particular use within the Township or within the immediate area.
- C. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, adjacent property values, or other matters affecting the public health, safety, and general welfare, either as they now exist or is they may in the future be developed as a result of the implementation of this Ordinance, or any other plan, program, map or ordinance of the Township or other government agency having jurisdiction to guide growth and development.
- D. The proposed use shall not impose an undue burden on any infrastructure of the Township, whether such services are provided by the Township or some other entity. The applicant shall be wholly responsible for providing such improvements, facilities, utilities, or services as may be required to adequately serve the proposed use in the proposed location. As part of the application And As a condition of approval of the proposed use, the applicant shall be responsible for establishing ability, willingness and a binding commitment to provide such improvements, facilities, utilities and services insufficient time and in a manner consistent with this and other ordinances of the Township. The permit approval shall be so conditioned.
- E. In reviewing an application, the following additional factors shall be considered:
 - 1. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - 2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, paved surfaces, dividers and traffic controls.
 - 3. Location, arrangement, appearance insufficiency of off street parking and loading.
 - 4. Adequacy and arrangement of pedestrian traffic access and circulation walkway structures, control of intersections with the vehicular traffic and overall pedestrian convenience.
 - 5. Adequacy of stormwater and drainage facilities.
 - 6. Adequacy of water supply and sewage disposal facilities.

7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's property and adjoining lands, including maximum retention of existing vegetation.
 8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 9. Special attention to the adequacy and impact of structures, roadways and landscaping in the area with susceptibility to ponding, flooding and/or erosion.
- F. No application shall be approved unless it is found that, in addition to complying with each of the standards enumerated above, any of the applicable standards contained in this Ordinance shall be met. In instances where the supplemental standards contained herein do not adequately protect the general health, safety and welfare of parties affected, all conditions necessary to protect the general health, safety and welfare shall be imposed as conditions of approval.

Conditions which might be imposed shall include but not be limited to provisions for additional parking, traffic control, submission of landscaping plans for screening, setbacks, special measures addressing sales activities, environmental controls, lighting, noise, fencing, vibration, soils testing, air quality testing, hours of operation and other measures which mitigate any potential adverse impact the use may have on adjoining uses.

The applicant shall supply evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the interests impact on the health, safety and welfare of the Township; and the proposed use shall be approved with appropriate conditions or deny based on said evaluation.

SECTION 5

Article III, Establishment of Districts, Section 316, Performance Standards Applicable to All Uses in All Districts, and all subsections thereunder are hereby amended to read as follows:

316 Performance Standards Applicable to All Uses in All Districts

The intent of this Section 316 is to regulate the development and operation of all development in the Township and to protect the environment and the public health, safety and general welfare. The following performance standards shall apply to all existing, proposed new or expanded residential, commercial, manufacturing and other nonresidential uses. (Note – this section shall not apply to agricultural uses.)

316.1 Yards and Buffers

Unless otherwise regulated by this Ordinance, where a commercial or manufacturing

use is proposed contiguous to any existing residential use or any R-1 or A-1 District the minimum side yard and rear yards shall be increased by 50% of that required by the District and a buffer consisting of a solid fence of wood and/or a dense evergreen planting not less than 6 feet high at the time of planting shall be required by the Township. Storage of equipment, supplies, products or other materials shall not be permitted in any front yard or side yard. Additional buffer areas or fencing may be required by the Township if the nature of the proposed use as determined by the Township so requires.

Landscape buffers shall be required by the Board of Supervisors in any yard area in order to ensure the protection of adjoining uses by providing visual barriers that block the glare of lights; reduce noise; serve as a protective barrier unblocking physical passage to dangerous periods; and reduce air pollution, dust and litter; and otherwise maintain and protect the rural character of the District.

- A. In determining the type and extent of the buffer required, the Township shall take into consideration the design of the project structures and site topography features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
- B. The width of the required buffer, as determined by the Township, shall not be less than 10 feet.
- C. A mix of ground cover and shrubbery vegetation and canopy trees, of such variety compatible with the local climate, may be required resulting in a dense screen not less than 6 feet in height at the time of planting. The owner of the property shall be responsible to maintain such screening, including the replacement of any vegetative elements of the screening that are damaged, die, removed by whatever means or otherwise fail to grow.
- D. Berms and landscape walls or fences, compatible with the principal building design, may be incorporated into the required buffer. Front yard buffers shall be provided in the same manner to a height of not less than 4 feet; however all clear site triangles shall be maintained.
- E. In any case, special consideration shall be given to existing residential uses and sites where residential uses are likely to be developed. In cases where the adjoining use is a commercial use, or when two or more adjacent properties are developed under a common site plan, the width and density of the buffer may be reduced if the Township shall determine that the proposed use and adjoining use(s) are not incompatible.
- F. Design details of buffers shall be included on the site plan, and buffers shall be considered "improvements" for the purposes of guaranteeing installation in accord with the requirements for "land development" in the Township Subdivision and Land Development Ordinance. It shall be the responsibility of the property owner to maintain all buffers in good condition and to replace any dying or dead plants or deteriorating landscape material.

316.2 Operations and Storage

All facilities and operations of a principle use engaged in the storage of raw material, finished products, fuel, machinery and equipment and any other material or supplies shall be enclosed and carried out within a building; or shall, as required by the Township, be provided with larger setbacks and/or buffers, fence or walls to afford protection to adjoining uses and any public road rights-of-way. In any such case all facilities and operations of a principle use engaged in such storage shall not be permitted to be located within any R-1 District. In addition to the aforementioned restriction, such storage areas shall not be less than 500 feet from an R-1 District and not less than 100 feet from any public road right-of-way. No manufacturing storage area shall be less than 500 feet from an R-1 District and not less than 100 feet from any public road right-of-way. Storage of materials, supplies or products in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted.

316.3 Fire and Explosion Hazards

All activities involving any manufacturing, production, storage transfer or disposal of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standards in the industry shall be required. Burning of waste materials is prohibited. The relevant provisions of Federal, State and local laws and regulations shall also apply. Details of potential hazards and details of planned safety and accident response actions shall be provided by the developer for review by the local fire company or companies. All buildings shall comply with the most current code standards as required by the Township. Additional buffer areas, larger setbacks, or fencing may be required by the Township if the nature of the proposed use as determined by the Township so requires. The minimum distance between buildings on the same parcel shall be not less than 20 feet.

316.4 Radioactivity and/or Electrical Disturbance

No activities shall be permitted which exceed Federal standards for radioactivity emissions, and/or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance. All applicable Federal, State and local regulations shall apply.

316.5 Vibration

No use, activity and/or operation shall generate vibration that is perceptible to an average person through their senses, without the use of measuring instruments, on property beyond the exterior lot lines of the use generating a vibration.

316.6 Lighting and Glare

No light source shall be exposed to the eye except those converted by globes or diffusers. Other lighting shall be indirect or surrounded by a shade to hide visibility

of the light source. Lighting design should be an inherent part of the architectural design. All streets, off-street parking areas and areas of intense pedestrian use shall be adequately lighted. Appropriate lighting fixtures shall be provided for walkways and to identify steps, ramps, and directional signs. The applicant shall provide the specifications of the proposed lighting and its arrangement on the site; all required lighting shall be considered improvements for the purpose of regulation by the Township Subdivision and Land Development Ordinance.

No direct or sky reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, shall be permitted so as to be visible at the property line. This restriction shall not apply to signs otherwise permitted by the provisions of this Ordinance.

316.7 Smoke

No emission shall be permitted from any chimney or otherwise which exceeds current EPA or DEP emission standards.

316.8 Odors

No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the parcel from which the odors are emitted.

316.9 Other Forms of Air Pollution

No burning any raw material, component or other substance associated with any production process shall be permitted. No waste materials or byproducts shall be burned or incinerated on any property except at a DEP approved solid waste disposal facility. In any case, no emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any soiling.

316.10 Surface and Groundwater Protection

All activities involving the possible contamination of surface or groundwater shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards, including the groundwater characteristics of the area in which the uses proposed, and details of planned safety devices and contamination response actions shall be provided by the developer. The Township may require a plan to be submitted for review and approval and may require financial security for ensuring contamination response. Monitoring wells and water quality testing shall be required by the Township.

The developers shall also provide details about the use of groundwater and any processes that could result in the depletion of groundwater supplies. No use shall be permitted which would result in the depletion of groundwater supplies.

In cases where the use is of such a nature that large volumes of water are required, the developers shall provide appropriate hydro-geologic studies which clearly establish that the proposed use will not cause a reduction in the quantity or quality of water supplies available to other properties located within 1,000 feet of any portion of the property where the proposed use will be located.

316.11 Landscaping

A landscaping plan for the proposed project shall be prepared by the developer for review and approval by the Township. Landscaping shall be considered in a proven for the purposes of regulation by the Township subdivision and land development ordinance. The landscaping plan shall include the overall design of the landscaping proposed, the type and size of vegetation to be utilized, and details of installation and maintenance program.

Landscaping shall be installed to the following minimum standards:

- A. All disturbed areas of the site shall be included in the landscaping plan, and those areas immediately adjacent to buildings and walkways shall be given extra consideration.
- B. Adequate pedestrian walkways shall be provided for access from parking areas and to common areas, and shall be an integral part of the landscaping; and shall be consistent with the architectural type of the project and shall be a minimum of 4 feet in width of a design and construction approved by the Township.
- C. Plants shall be a variety recommended for the Township's climate, unless otherwise approved by the Board of Supervisors.
- D. Where landscaping is required to serve as a buffer (e.g. between the project and adjoining properties or between buildings and parking areas) the plants used shall be of such variety, size and arrangement of height and spacing to effect the required buffer in a reasonable period of time as determined necessary by the Township. The width of the landscape buffer shall generally not be less than 10 feet in all required yards, unless the applicant can demonstrate to the Township that the buffer can be effected by other means such as soil mounding and or fencing.
- E. The variety of landscape materials shall be consistent with building architecture and the surrounding area and plant type shall be appropriate for the size and location of the space is to occupy.
- F. A minimum of 5% of the interior of any parking lot having 25 or more parking spaces shall be maintained with landscaping, including trees and

shrubs in plots of at least 36 square feet in area. Trees and landscaping plots shall be so located to provide visual relief and sun and wind interruption with the parking area to ensure safe patterns of internal circulation. However, in no case, shall more than 15 spaces be permitted in a continuous row without interruption by landscaping, and not more than 60 spaces shall be permitted in one lot, said lots being separated by landscaping plots a minimum of 4 feet in width.

- G. Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.
- H. Plastic or artificial landscape materials shall not be permitted with the exception of permeable weed control material.

316.12 Storm Water Management and Soil Erosion Control

A storm water management plan and soil erosion control plan shall be provided to the Township for review and approval. Said plan shall be prepared in implemented pursuant to the standards contained in Sections 605 and 606, respectively, of the Township Subdivision and Land Development Ordinance; and County Conservation District standards.

The protection of the quality of groundwater and surface water shall be an integral part of all proposed storm water management practices; and all storm water plans shall include an element specifically addressing water quality. The plan shall provide for the minimization of the discharge of “first flush” sediments off the project site or directly to infiltration structures. Containment of “first flush” sediments shall be accomplished by accepted improving engineering design and practice, including but not limited to the use of grass buffer/filter strips, grass swales, detention basins, sediment traps and special inlet devices.

316.13 Waste Materials

No liquid, solid, toxic or hazardous waste shall be stored or disposed in any commercial area, either above or below ground level. Temporary storage and handling of waste shall be in a specific designated area, shall be removed from the property on a weekly basis and shall be conducted in compliance with all applicable State and Federal regulations in order to prevent any water, soil or air contamination and shall be screened from view of adjoining properties and any public road right-of-way by fencing or other buffers. In addition, no waste discharge is permitted into any reservoir sewage or storage disposal system, stream, open body of water or onto the ground.

316.14 Sewage Disposal

Sewage disposal shall be provided by the system meeting the requirements of the Pennsylvania Department of Environmental Protection. Discharge into such system

shall be limited to human wastes. No discharge wastes or materials in any way associated with the production process shall be permitted to any sewage system.

316.15 Roof Screening

Provisions shall be made for architectural screening or roof appurtenances such as cooling towers and ventilation ducts so that such appurtenances are not visible from surrounding properties or streets.

316.16 Sidewalks

Pedestrian walks not less than 4 feet wide shall be provided for access is to commercial facilities from parking areas and along the building walls where customers/client access is located.

316.17 Other Regulations

Certification shall be provided by the applicant demonstrating that the project complies with all other applicable local State and Federal regulations, and said proposal has obtain all required permits, certifications, and authorizations, including but not limited to the PA Department of Transportation, the PA Department of Environmental Protection, the PA Department of Labor and Industry, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency.

316.18 Noise

The applicant of any proposed industrial use, development, structure, building and/or facility located any Zoning District of Newton Township shall take the following steps to minimize potential noise resulting from a proposed industrial use, development, structure, building and/or facility.

- A. Prior to the commencement of any use, activity or operation of a proposed industrial use, development, structure, building and/or facility the applicant shall establish the continuous seventy-two hour weekday and forty-eight hour weekend ambient noise for all frequencies at all boundaries of the subject property with prior approval of the testing times and dates by the Board of Supervisors.
- B. Measurement Equipment - All noise level measurements shall be made using a sound level meter meeting the most current American National Standard Specification for Sound Level Meters (ANSI 1.4- not less than Type 2 instruments). The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements shall be taken using the FAST response time and A-weighting.
- C. The applicant shall provide the Township documentation, satisfactory in form and substance to the Township, of the established ambient noise level

prior to the commencement of any use, activity or operation of a proposed industrial use, development, structure, building and/or facility.

- D. Between the hours of 7 PM and 7AM (local time), the decibel level shall not exceed ambient noise level that was established under item b any point outside the boundaries of the property by more than 3 decibels.
- E. Between the hours of 7AM and 7 PM (local time), the decibel level shall not exceed ambient noise level that was established under item b any point outside the boundaries of the property of an Oil and/or Gas Well Site by more than 5 decibels.

SECTION 6

Article III, Establishment of Districts, will Section 322, Environmental Impact Statement, subsection A, is hereby amended to read as follows:

322 Environmental Impact Statement

- A. An Environmental Impact Statement (EIS) is required for any use which is classified as a conditional use and/or the following specific uses:
 - 1. Major Impact Development as regulated by Section 321 of this Ordinance.
 - 2. Industrial parks
 - 3. Manufacturing or industrial uses
 - 4. Junkyards
 - 5. Natural resource uses
 - 6. Natural resource uses processing
 - 7. Agricultural products processing
 - 8. Solid waste facilities and staging areas
 - 9. Warehouses and Trucking Terminals
 - 10. Any use involving the initial or cumulative disturbance of 87,120 or more square feet of soil surface areas.
 - 11. Any use involving the initial or cumulative construction, installation and/or placement of 43,560 square feet or more of buildings, structures or other in pervious surface areas
 - 12. Any use involving development in any floodplain area
 - 13. Compressor station
 - 14. Processing plant

The requirements of this Section shall also be applied to any proposed use, for which reasons of location, design, existing traffic or other environmental considerations, as determined by the Township, warrants the application of the study and development standards contained herein.

SECTION 7

Article V, Business District (C-1) Section 502.7, Schedule of Uses, is hereby amended to include Gas Wells as a principal a permitted use.

SECTION 8

Article V, Business District (C-2) Section 503.7, Schedule of Uses, is hereby amended to include Gas Wells as a principal a permitted use.

SECTION 9

Article VI, Manufacturing District, (M-1) Section 602, Schedule of Uses, is hereby amended to include Gas Wells as a principal a permitted use.

SECTION 10

Article VII, Agricultural District, (A-1) Section 702, Schedule of Uses, is hereby amended to include Gas Wells as a principal a permitted use.

SECTION 11

Article VIII, Conservation District (S-1) Section 802, Schedule of Uses, is hereby amended to include Gas Wells as a principal a permitted use.

SECTION 12

Article V, Business District (C-1) Section 502.7, Schedule of Uses, is hereby is hereby amended to include water and other fluid storage or impoundment areas used exclusively for oil and gas operations as a principal a permitted use.

SECTION 13

Article V, Business District (C-2) Section 503.7, Schedule of Uses, is hereby amended to include water and other fluid storage or impoundment areas used exclusively for oil and gas operations as a principal a permitted use.

SECTION 14

Article VI, Manufacturing District, (M-1) Section 602, Schedule of Uses is hereby amended to include water and other fluid storage or impoundment areas used exclusively for oil and gas operations as a principal a permitted use.

SECTION 15

Article VII, Agricultural District, (A-1) Section 702, Schedule of Uses, is hereby amended to include water and other fluid storage or impoundment areas used exclusively for oil and gas operations as a principal a permitted use.

SECTION 16

Article V, Business District (C-1) Section 502.7, Schedule of Uses, is hereby amended to include a compressor station as a conditional use.

SECTION 17

Article V, Business District (C-2) Section 503.7, Schedule of Uses, is hereby amended to include a compressor station as a conditional use.

SECTION 18

Article VI, Manufacturing District, (M-1) Section 602, Schedule of Uses, is hereby amended to include a compressor station as a principal a permitted use.

SECTION 19

Article VII, Agricultural District, (A-1) Section 702, Schedule of Uses, is hereby amended to include a compressor station as a principal a permitted use.

SECTION 20

Article VIII, Conservation District (S-1) Section 802, Schedule of Uses, is hereby amended to include a compressor station as a principal a permitted use as a conditional use.

SECTION 21

Article VI, Manufacturing District, (M-1) Section 602, Schedule of Uses, is hereby amended to include a processing plant as a principal a permitted use.

SECTION 22

Article VII, Agricultural District, (A-1) Section 702, Schedule of Uses, is hereby amended to include a processing plant as a conditional use.

SECTION 23

ALL OTHER ORDINANCES, OR PARTS THEREOF, WHICH ARE INCONSISTENT OR IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE ARE HEREBY REPEALED TO THE EXTENT OF SUCH BEING INCONSISTENT OR IN CONFLICT WITH THIS ORDINANCE.

SECTION 24

ALL OTHER ORDINANCES, OR PARTS THEREOF, WHICH ARE INCONSISTENT OR IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE ARE HEREBY REPEALED TO THE EXTENT OF SUCH BEING INCONSISTENT OR IN CONFLICT

WITH THIS ORDINANCE.

SECTION 25

IF ANY ARTICLE, SECTION, SUBSECTION, PARAGRAPH, SENTENCE OR PHRASE OF THIS ORDINANCE IS FOR ANY REASON DECLARED TO BE INVALID, ILLEGAL OR UNCONSTITUTIONAL BY ANY COURT OF COMPETENT JURISDICTION, THE VALIDITY OF THE REMAINING PROVISIONS SHALL BE UNAFFECTED BY SAID DECLARATION. IT IS THE INTENTION OF THE NEWTON TOWNSHIP BOARD OF SUPERVISORS THAT THIS ORDINANCE WOULD HAVE BEEN ADOPTED HAD SUCH UNCONSTITUTIONAL, ILLEGAL OR INVALID PART NOT BEEN INCLUDED.

THIS ORDINANCE SHALL BECOME EFFECTIVE FROM THE 5TH DAY FOLLOWING ITS ENACTMENT.

ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF NEWTON TOWNSHIP COUNTY, PENNSYLVANIA, THIS ____ DAY OF _____, 2012.

CHAIRMAN

VICE- CHAIRMAN

SUPERVISOR

ATTEST:

TOWNSHIP SECRETARY