BOROUGH OF CHURCHILL

ORDINANCE NO. 731

AN ORDINANCE OF THE BOROUGH OF CHURCHILL, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 304 ("ZONING"), OF THE CODE OF THE BOROUGH OF CHURCHILL BY ADOPTING ADDITIONAL REGULATIONS GOVERNING OIL AND GAS WELL PRODUCTION AND RELATED ACTIVITIES IN THE BOROUGH AND ADDING RELEVANT DEFINITIONS AND CONDITIONAL USE CRITERIA

WHEREAS, Section 304-37 of the Code of the Borough of Churchill regulates gas and oil well production within the Borough of Churchill; and

WHEREAS, gas and oil well production is currently permitted as a Conditional Use in C-1 Commercial Districts only; and

WHEREAS, Article I, Section 27 of the Pennsylvania Constitution provides, and the Pennsylvania Supreme Court has acknowledged, that the people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment, and that Pennsylvania's public resources are the common property of all of the people, including generations yet to come; and

WHEREAS, the general objective for the management of growth in the Borough as set forth in the Zoning Ordinance of the Borough of Churchill is to provide a pleasant, attractive, healthy, safe and convenient environment; and

WHEREAS, the Borough Council of the Borough of Churchill believes that it is in the best interest of the residents of the Borough that the Borough be provided certain information prior to the commencement of gas and oil well production and related activities; and

WHEREAS, Borough Council has determined that additional regulation of oil and gas development activities is necessary to ensure the health, safety and welfare of the residents of the Borough; and

WHEREAS, the Borough Council of the Borough of Churchill wishes to amend Chapter 304 of the Code to provide for reasonable development of oil and gas resources in accordance with Pennsylvania Oil and Gas Act, as amended, and consistent with relevant Pennsylvania case law.

NOW THEREFORE, BE IT ORDAINED AND ENACTED and it is hereby ordained and enacted by the Borough Council of the Borough of Churchill, Allegheny County, Pennsylvania, as follows:

Section 1.

The following terms and definitions in Chapter 304, Article II, Section 304-8(B) of the Code of the Borough of Churchill are hereby deleted in their entirety:

DRILLING
GAS OR OIL PRODUCTION
GAS WELL
OIL WELL

Section 2.

Chapter 304, Article II, Section 304-8(B) of the Code of the Borough of Churchill is hereby amended by adding the following definitions:

AMBIENT NOISE LEVEL - The all encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location without extreme atmospheric conditions such as wind greater than three meters per second or precipitation and then adjusting the noise level to eliminate any noise associated with existing developments or facilities.

BEST MANAGEMENT PRACTICES - State of the art mitigation measures applied to oil and natural gas drilling and production to help ensure that energy development is conducted in an environmentally responsible manner.

CLOSED-LOOP SYSTEM - A system utilized while drilling so that various types of pits are not used and instead steel bins or closed containers are used to collect all drilling waste.

COMPLETION OF DRILLING, RE-DRILLING AND RE-WORKING - The date within sixty (60) days of the completion of drilling, re-drilling or re-working of the well site.

DISPOSAL WELL - A non-producing gas well used for the storage of waste water.

DRILLING - Any digging or boring of a new well to explore, develop, or produce oil, gas or other hydrocarbons or to inject gas, water or any other fluid or substance into the earth.

DRILLING SITE - An area that includes the perimeter of the surface area of drilling operations.

EXPLORATION - Temporary geologic or geophysical activities, drilling in context with the zoning definition in this ordinance, including seismic surveys, related to the search for natural gas or other subsurface hydrocarbons.

FLOWBACK WATER - The murky, salty water from fracking natural gas wells. It consists of frack fluid which returns to the surface as well as produced water.

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

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

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

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

beneficial uses.

LOCAL STREET OR ROAD - A public street or road, accepted by ordinance, serving abutting homogeneous land uses and providing for no truck usage except for local deliveries.

OIL AND GAS DEVELOPMENT FACILITY OR FACILITY:

(a) **NATURAL GAS COMPRESSOR STATION** - A facility designed and constructed to compress natural gas that originates from an oil and gas well or collection of such wells operating as a midstream facility for delivery of oil and gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

(b) **NATURAL GAS PROCESSING PLANT** - A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow the natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets, but not including facilities or equipment that are/is designed and constructed primarily to remove water, water vapor oil or naturally occurring liquids from natural gas.

(c) **GATHERING SYSTEM FACILITY** - A facility associated with a gathering system or water collection line, such as a drip station, vent station, pigging facility, chemical injection station or transfer pump station.

(d) **PRODUCTION FACILITY** - A facility related to the production of gas which utilizes motors and/or engines.

OIL AND GAS DEVELOPMENT or DEVELOPMENT - The well site preparation, well site construction, drilling, fracturing, and/or site restoration associated with an oil and gas well of any depth; water and other fluid storage; gas reservoir; impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines, not regulated by the Pennsylvania Public Utility Commission or United States Department of Transportation, Office of Pipeline Safety, and associated equipment; and all other equipment and activities associated with the exploration for, production of and transportation of oil and gas, including natural gas compressor stations and natural gas processing plants, structures, defined as other support facilities or structures performing similar functions that operate as midstream facilities.

OIL AND GAS DRILLING SUBSURFACE FACILITIES - Activities performed under the surface of the ground that are part of the operation of oil and gas drilling, as defined herein, whether or not located on properties within the unit for a particular well site, but that are not included in the well site, including, but not limited to horizontal drilling and hydraulic fracturing zones, underground gathering and transmission pipelines established in accordance with Public Utility Commission guidelines, water distribution lines and similar underground facilities incidental to oil and gas drilling.

PROTECTED STRUCTURE - Any occupied structure. The term shall not include any structure whose owner has signed a waiver relieving the operator from implementation of the measures established herein or other applicable provisions of the Code of the Borough of Churchill. In the waiver, the owner must acknowledge that the operator is explicitly relieved from complying with the regulations applicable to a protected structure. The waiver must be notarized.

RE-DRILL - Deepening or sidetrack/horizontal drilling of the existing well bore extending more than one hundred fifty (150) feet from said well bore.

RE-WORK - Re-entry of an existing well within the existing bore hole or by deepening or sidetrack/horizontal operations (which do not extend more than one hundred fifty (150) feet horizontally from the existing well bore) or replacement

of well liners or casings.

WATER IMPOUNDMENT, FRESH - A lined depression, excavation pit or facility situated in or upon the ground whether natural or artificial used to store fresh water.

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

WELL SITE - Shall consist of the area occupied by any of the facilities, structures and equipment associated with or incidental to the construction, drilling, fracturing, production, or operation of an oil or gas well. If multiple areas are used, then the total combined areas shall be considered the well site.

WELL OPERATOR OR OPERATOR - Any person, partnership, company, corporation and its subcontractors and agents who have an interest in real estate for the purpose of exploring or drilling for, producing or transporting oil or gas. The person designated as the well operator or operator on the permit application or well registration. If the owner is a separate entity than the operator, then the owner shall also be listed. Where a permit or registration was not issued, the term shall mean any person who locates, drills, operates, alters or plugs any well or reconditions any well with the purpose of production there from. In cases where a well is used in connection with the underground storage of gas, the term also means a storage operator.

WELLHEAD - The precise point of entry into the ground where the drilling of a gas well takes place.

Section 3.

Chapter 304, Article II, Section 304-37(B) of the Code of the Borough of Churchill is hereby deleted in its entirety and replaced by the following:

B. Oil and Gas Development may be permitted under the following conditions:

(1) Conditional Use Application: A person or entity desiring approval of a conditional use application pursuant to this Section shall submit a written application in a form to be prescribed by the Borough. Before submitting the application, the applicant is strongly encouraged to meet with the Borough Manager or his designee to determine the requirements of and the procedural steps for the application. The intent of this process is for the applicant to obtain necessary information and guidance before entering into any commitments or incurring substantial expenses with regard to the site and plan preparation. The application shall not be considered to be complete and properly filed unless and until all items required by this section, including the application fee, have been received. Such application shall include the following information and plans:

a. Payment of an application fee in an amount to be determined from time to time by the Borough Council of the Borough of Churchill as adopted by a Fee Resolution. Said fee shall also include a requirement to deposit escrow funds to be drawn from by the Borough for reimbursement of administrative and engineering and other professional fees associated with review and inspections to ensure compliance with the ordinance. The Borough may adjust the escrow amount from time to time as may reasonably be required.

b. Fourteen (14) paper copies and one electronic copy of the completed application form supplied by the Borough along with supporting documentation as identified in this Section.

c. Written permission from the property owner(s) who has legal or equitable title in and to the proposed development or facility or demonstrable documentation of the applicant's authority to occupy the property.

d. The GIS location and 911 address of the Well Site.

e. Copies of any and all permits and applications submitted to all applicable local, county, state and federal agencies. Permits and plans shall include but not be limited to the Pennsylvania Department of Environmental Protection ("PADEP") Well applications and permit, Erosion and Sediment Control General Permit-2, or current permit requirement, and all other required erosion and sedimentation, air, water and waste management permits.

f. A site plan prepared by an engineer or surveyor licensed in Pennsylvania shall be provided to establish compliance with all applicable regulations. All drilling and production operations, including derricks, vacuum pumps, compressors, storage tanks, vehicle parking, structures, machinery, temporary housing, ponds and pits, and ancillary equipment on the well site shall be identified. All protected structures within one thousand five hundred (1,500) feet of the property lines of the well site shall be identified. All roads related to the development or facility must also be shown. A sufficient number of copies of the site plan shall be provided for review and comment by all Borough of Churchill emergency service organizations.

g. <u>Traffic Study:</u>

   i. A description of plans for the transportation and delivery of equipment, machinery, water, chemicals, products, materials and other items to be utilized in the siting, drilling, stimulating, completion, alteration and operation of the development or facility. Such description shall include a map showing the planned vehicular access roads and the transportation infrastructure being proposed and the type, weight, number of trucks and delivery schedule necessary to support each phase of the development.

   ii. An inventory, analysis and evaluation of existing road conditions on Borough roads along the proposed transportation route identified by the application, including photography, video and core boring as determined to be necessary by the Borough engineer(s).

h. To the extent that the same is not otherwise included or provided on copies of applications for permits from the Commonwealth of Pennsylvania or other governmental units and herewith submitted or where no such permit is required, the applicant shall provide a water withdrawal plan for the development identifying the source of water, how many gallons will be used and withdrawn each day, the origination of the water, proposed truck routes and all permits issued by the Commonwealth of Pennsylvania or any other governmental body. If the development is to be supplied by way of waterlines, the locations of all proposed waterlines are to be identified. The site for the treatment and disposal of the water shall also be identified. The use of non-potable water sources is highly encouraged. The use of injection wells for disposal of fracking fluid is strongly discouraged. The applicant is required to use best management practices.

i. To the extent that the same is not otherwise included or provided on copies of applications for permits from the Commonwealth of Pennsylvania or other governmental units and herewith submitted or where no such permit is required, the applicant shall identify the means and availability of the site for disposal of cuttings, fracturing fluids, oil, toxic materials, hazardous materials and other waste products.

j. To the extent that the information has been developed, the applicant shall provide a plan for the transmission of gas from the development. The plan will identify but not be limited to gathering lines, compressors and other mid and downstream facilities located within the Borough and extending eight hundred (800) feet beyond the Borough boundary.

k. The Applicant shall provide a sufficient number of copies to the Borough of the preparedness, prevention and contingency ("PPC") plan as defined in the PADEP document, "Guidelines for the Development and Implementation of Environmental Emergency Response Plans," or the most recent applicable guidance document, to be distributed to the Borough Manager, the Emergency Management Coordinator, the Fire Chief and any other emergency service providers for the Borough.

l. Noise Management Plan:

i. An acoustics study shall be prepared and submitted with the application. The study shall be prepared by an acoustics expert(s) acceptable to the Borough. The study shall identify the existing background level of noise and the anticipated noise impact from the proposed use. The report shall contain measures of existing ambient measurements, estimates of the noise measurements to be anticipated from the type of operations and equipment that are proposed for the use and if there are any significant increases in those noise levels. The report shall also contain specific proposals that are intended to reduce noise levels emanating off the site.

ii. The study shall be based upon actual sound level measurements and estimates of potential noise impact at the property lines of the site of the proposed use; or the applicant/developer shall submit a statement prepared by an engineer warranting that the nature of the use will produce no impact on acoustics, in regards to the standards of this Section.

iii. The noise level shall be established based on a test performed during a continuous seventy-two (72) hour time span which shall include at least one twenty-four (24) hour reading during either a Saturday or Sunday. The testing shall be done by a qualified Noise Control Engineer or other qualified person approved by the Borough and shall be in accordance with specifications ANSI S12.18-1994 Method II and ANSI S1.4-1971. The Borough reserves the right to hire a third party consultant to witness testing and review the results at the sole expense of the applicant. The sound level meters used shall meet the American National Standard Institute's standard for a Type I sound level meter.

m. Environmental Impact Analysis: To the extent that the same is not otherwise included or provided within copies of applications for permits from the Commonwealth of Pennsylvania or other governmental units and herewith submitted or where no such permit is required, the applicant shall provide an environmental impact analysis. The environmental impact analysis shall describe, identify and analyze all environmental aspects of the site and of neighboring properties that may be affected by the proposed operations or the ultimate use proposed to be conducted on the site. The limits of the impact area to be studied shall be reviewed and approved by the Planning Commission and the Borough Council. The environmental impact study shall include, but not be limited to, all critical impact areas on or off-site that may be impacted by the proposed or ultimate use of the facility, including the impact on the critical areas, the protective measures and procedures to protect the critical areas from damage, and the actions to be taken to minimize environmental damage to the critical areas on the site and surrounding areas during and after completion of the operation.

Critical impact areas include, but are not limited to stream corridors; streams; wetlands; slopes in excess of twenty-five percent (25%); sites where there is a history of adverse subsurface conditions or where available soils information or other geotechnical data, including data from the Bureau of Mines indicates the potential for landslides, subsidence or other subsurface hazards; Class I agricultural lands; highly acidic or erodible soils; carbonate or highly fractured bedrock; aquifer recharge and discharge areas; areas of unique or protected vegetation, wildlife habitat, and areas of historic, cultural and/or archaeological significance.

n. Air Quality Study. To the extent that the same is not otherwise included or provided within copies of applications for permits from the Commonwealth of Pennsylvania or other governmental units and herewith submitted or where no such permit is required, the applicant shall provide an Air Quality Study. The Study shall be prepared by experts acceptable to the Borough and submitted with the application and shall include an analysis of the existing and predicted air quality levels, including smoke, odors, fumes, dust and pollutants at the site. This report shall contain the sources of the information, the data and background tests that were conducted and the conclusions and recommendations of the professionals preparing the report that would be required to maintain the air quality at a level equal to or better than the existing background level prior to the proposed use; or the applicant/developer shall submit a statement prepared by an engineer warranting that the nature of the use will produce no impact on air quality.

o. Hydrological Study. To the extent that the same is not otherwise included or provided within copies of applications for permits from the Commonwealth of Pennsylvania or other governmental units, and herewith submitted or where no such permit is required, the applicant shall provide a hydrological study. The study shall be prepared by a hydrogeologist acceptable to the Borough. The study shall evaluate the existing surface and subsurface hydrogeology, based upon historical data and on-site investigation and studies. The study shall identify groundwater discharge and recharge areas that may be affected by the proposed use, map the groundwater table and analyze and delineate the effects of the proposed use on the hydrology, including surface and ground water quantity and quality. Acceptance of the study is subject to final approval by the Borough Council. If the study shows an alteration to the groundwater, the application shall be denied.

p. Pre-Development and Post-Development Soil Testing. Prior to beginning any oil and gas development activities, the operator shall be responsible for testing soil conditions within three hundred (300) feet each well site. The purpose of testing is to determine the baseline soil conditions surrounding the proposed well site and address resultant changes that may occur or have an impact on the soils of the site and surrounding area.

i. Pre-drilling testing results shall be submitted as part of the Conditional Use application.

ii. Post-hydraulic fracturing testing shall be completed no sooner than one (1) month after hydraulic fracturing activities have ceased and no later than two (2) months after hydraulic fracturing activities have ceased.

iii. The results shall be submitted to the Borough and PA DEP within ten (10) days of their receipt.

iv. The operator shall be responsible for all costs associated with testing and testing shall be done by an independent state-certified testing laboratory agreed upon by the Borough.

q. Conditional use approval is non-transferrable without consent from Borough Council and shall automatically terminate, unless extended, if drilling is not commenced within one year from the date of issuance of the approval. The conditional use approval may be extended by the Borough Council upon written request by the operator, after notice and hearing. The operator shall provide proof that the requested conditional use permit for such location has not changed and that the operator meets all applicable criteria contained in this Section.

r. The applicant shall provide any and all waivers from owners of protected structures.

s. Scheduling. The applicant shall provide a schedule with the application indicating the anticipated beginning and ending dates for the following activities:

i. Well site preparation;

ii. Drilling activity;

iii. Completion (perforating);

iv. Stimulation (hydraulic fracturing);

v. Production work;

vi. Plugging; and

vii. Site restoration.

t. Insurance. Applicant shall furnish to the Borough a Certificate of Liability Insurance naming the Borough as an additional insured with respect to operations conducted within the Borough, showing proof of liability insurance covering commercial, personal injury, and general liability in amounts not less than Twenty-Five Million Dollars ($25,000,000) per occurrence. The applicant shall fully defend, protect, indemnify, and hold harmless the Borough, its departments, agents, officers, employees, or volunteers from and against such and every claim, except for those claims relating to any negligent, willful or intentional acts of the Borough, its department, agents, officers, employees, or volunteers. The insurance coverage may consist of a combination of self-insurance, excess coverage and umbrella coverage.

(2) General Standards.

a. Best management practices shall be followed.

b. The uses regulated by this Section are determined to be land developments and subject to the applicable provisions of the Borough's Subdivision and Land Development Ordinance, codified at Chapter 268 of the Code of the Borough of Churchill, as it may be amended.

c. Any hazardous or toxic material shall be securely contained, stored and removed in accordance with applicable state or Federal regulations. On-site disposal is prohibited. All hazardous materials stored must be clearly marked, identifying the contents, chemicals, and hazards as required by the OSHA Hazard Communication Standard 29 CFR 1910.1200 and National Fire Protection Association ("NFPA") Code 104 - Standard System for the identification of the Hazards of Materials for Emergency Response. All regulated tanks are to be labeled to a NFPA specification.

d. Fracture fluid storage ponds, open pits and reserve pits are highly discouraged. Closed-loop systems and other related best management practices, including but not limited to the

use of netting over fracture fluid ponds, shall be used during the drilling or completion of any well.

e. Fresh water storage ponds are permitted. The use of non-potable water is strongly encouraged.

f. All operations shall be in accordance with applicable Federal laws and regulations, the Pennsylvania Oil and Gas Act (58 P.S. §§ 601.101 et seq.), as amended, and pursuant to all other applicable rules, regulations and procedures adopted pursuant thereto.

g. The operator shall be responsible for prevention and prompt removal of spills involving waste materials, oil and toxic or hazardous materials.

h. Multiple well pad sites on any one oil and gas development shall be prohibited, unless the operator proves to the satisfaction of the Borough that the underlying geology makes using a single well pad impractical.

i. Changes in the site plan, including but not limited to any expansion of the ground surface area used and/or devoted towards drilling operations, requires a new conditional use approval pursuant to the terms and conditions of this Section.

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

k. At least thirty (30) days prior to any development activity at the development or facility, the operator shall provide the following information to each property owner within four thousand (4,000) feet of the planned surface location of the development or facility.

    i. A copy of the site plan submitted as part of the conditional use application;

    ii. A general description of the planned operations at the development or facility and associated equipment to be used;

    iii. The contact information for the operator; and

    iv. The availability of the operator to hold a meeting locally with such residents to present the operator's plans for the development or facility and to allow for questions and answers. The meeting(s) shall be held prior to the commencement of development activity.

l. A duly authorized representative of the Borough, trained by the operator or agents of the operator, shall have the authority in relation to the enforcement of this Section to enter upon the property of a development or facility for the purpose of inspecting the equipment and all other aspects of the site necessary to assure compliance with this Section.

m. The operator of any development or facility shall notify the Emergency Management Coordinator, Borough Manager and Borough Engineer no less than ninety (90) days prior to the startup and abandonment or shutdown of any well site.

n. Wellheads shall be located not less than five hundred (500) feet from any protected structure and not less than two hundred (200) feet from the nearest property line.

(3) Traffic Impact

a. The proposed routes must be designed to minimize the impact on streets within the Borough. The Borough reserves the right to designate alternate routes in the event that the applicant's proposed routes are deemed inadequate, unsafe or overly disruptive to normal vehicular traffic by the Borough. Vehicles are to operate on state roads and may only use municipal roads when the use of state roads is not feasible. The operator shall coordinate truck routes with the school bus schedule so as to minimize interference with transportation of students to and from school.

b. Prior to the commencement of any activity at the development or facility, the operator shall enter into a municipal roadway maintenance and repair agreement with the Borough, in a form acceptable to the Borough, regarding maintenance, repair and bonding of municipal roads that are to be used by vehicles for development activities. The applicant shall take all necessary corrective action and measures as directed by the Borough pursuant to the agreement to ensure the roadways are repaired and maintained during and at the conclusion of all development activities.

c. The operator shall take the necessary safeguards to ensure that the municipal roads utilized remain free of dirt, mud and debris resulting from development activities and/or shall ensure such roads are promptly swept and cleaned if dirt, mud and debris occur.

d. The operator shall take all necessary precautions to ensure the safety of persons in areas established for road crossing and or/adjacent to roadways (for example, persons waiting for public or school transportation). Where necessary and allowed, during periods of anticipated heavy or frequent truck traffic associated with the development of the facility, the operator will provide flagmen to ensure the public safety and include adequate signs and/or other warning measures for truck traffic and vehicular traffic.

e. There will be no staging of trucks or equipment on local roads.

f. A traffic control plan in conformance with PennDOT standards shall be provided.

(4) Visual.

a. The oil and gas development or facility shall be located, designed and constructed to minimize the removal of trees and shrubs, protect all natural resources, and minimize the amount of surface disturbance.

b. The operator shall not clear brush or trees by way of burning and shall chip, grind or remove all tree stumps from properties it clears for development purposes.

c. The location and design of structures and site improvements shall be integrated with the natural color, form and texture of the surrounding area.

(5) Lighting.

a. Lighting shall be in conformance with § 304-23(G).

b. No well site lighting used for or associated with well site construction, drilling operations or post-drilling production shall be positioned in a manner such that it shines directly on public roads, protected structures, or any property within 3,000 feet of the well site. Well site lighting must be directed downward and shielded to prevent glare on public roads and adjacent properties.

(6) Air and Water Quality.

a. Air-contaminant emissions shall be in compliance with all municipal, county, state and Federal regulations, including, without limitation, the provisions of the Code of the Borough of Churchill, as amended, and all applicable regulations for smoke, ash, dust, fumes, gases, odors and vapors.

b. The operator shall take the necessary safeguards to ensure appropriate dust-control measures are in place to prevent visible plumes of dust from crossing the property line or adversely impacting neighboring properties.

c. Sixty (60) days prior to drilling, the operator shall notify residents with water wells within four thousand (4,000) feet of the gas well of its intentions to drill. The operator shall provide proof of notice to the Borough.

d. All condensate tanks, compressor stations, processing plants and other production facilities shall be equipped with vapor recovery and/or vapor destruction units.

(7) Noise. Except for emergency and governmental compliance activity, noise shall be regulated by § 304-23(C).

(8) Hazards.

a. Upon request of the Emergency Management Coordinator, the operator shall, prior to drilling its first gas well in the Borough, make available with at least thirty (30) days' notice, at the applicant's sole cost and expense, an appropriate group training program for emergency responders and Borough code enforcement personnel. Such training shall be made available at least annually during any year that drilling activities take place at the oil and gas development or facility. Training should cover each phase of the development from site work to well completion. The Borough shall require a minimum of four (4) hours of annual training, with additional hours added at the recommendation of the Fire Chief annually. If additional wells are drilled at the site, the operator and Emergency Management Coordinator will determine if additional training is required.

b. The applicant shall maintain at the property and on file with the municipality a current list and the Material Safety Data Sheets ("MSDS") for all chemicals used in the drilling operations (including but not limited to types of additives, acids, polymers, salts, surfactants and solvents) and in any fracturing operations. If the PPC requires availability and/or utilization of special equipment or supplies particular to the hazards or conditions addressed in the PPC, the Borough shall require the operator to reimburse the Borough for the cost of procurement of such special equipment or supplies.

(9) Access.

a. Beginning with its intersection with a public street, any ingress or egress point for the development or facility shall be paved for the first fifty (50) feet and improved with limestone or other material for the next one hundred (100) feet in a manner that no water, sediment, or debris will be carried onto any public street. If any amount of mud, dirt or other debris is carried onto public or private rights-of-way from the well site, the operator shall immediately clean the roads and implement a remedial plan as directed by the Borough to keep the streets continuously clean.

i. The first fifty (50) feet from the existing edge of pavement extending into the site shall consist of the following material:

1. Compacted subgrade.
2. PennDOT Class 4 geotextile fabric.
3. Eight inches of AASHTO No. 1 crushed aggregate base course.
4. Two inches of PennDOT 2A aggregate.
5. Six inches of superpave 25 mm binder course.

ii. The remainder of the driveway to the well pad shall be constructed with the following material:

1. Eight inches of AASHTO No. 1 crushed aggregate base course.
2. Two inches of PennDOT 2A aggregate.

b. Ingress and egress points for all public and private driveways or roadways shall be located and improved in order to:

i. Meet Pennsylvania Code 67, Chapter 441, Access to and Occupancy of Highways by Driveway and Local Roads, PennDOT Design Manual 2.

ii. Ensure adequate capacity for existing and projected traffic volume.

iii. Provide efficient movement of traffic, including appropriate turning radii and transition grade.

iv. Minimize hazards to highway users and adjacent property and human activity.

c. All applicable permits or approvals must be obtained, including, without limitation:

i. Access or driveway permits to state or county roads.

ii. Overweight or oversize loads.

(10) Geophysical Exploration.

a. For any areas of the Borough where the applicant intends to conduct seismic testing, a licensed geologist must provide a report regarding the ability of the land to subside due to the proposed operations. This report must detail the amount of risk of seismic activity because of existing subsurface conditions and with the introduction of drilling and fracking.

b. The applicant shall post a bond or other security in a form to be approved by the Borough in the amount of One Million Dollars ($1,000,000) to cover the cost of any damages as a result of seismic testing.

(11) Storage of Equipment.

a. No equipment, including drilling, re-drilling, re-working or other portable equipment, shall be stored on the development or facility which is not essential to the everyday operation of the development or facility. This includes the removal of idle equipment unnecessary for the operation of wells.

b. Lumber, pipes, tubing and casing shall not be left on the development or facility except when drilling or well-servicing operations are being conducted on the site.

c. It shall be illegal to park or store any vehicle or item of machinery on any street, right-of-way or in any driveway, alley or on the development or facility which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires, except that equipment which is necessary for the maintenance of the development or facility or for the

gathering or transporting of hydrocarbon substances from the site.

(12) Fencing, screening and buffering.

a. Security fencing consisting of a permanent galvanized chain-link fence, a minimum of eight (8) feet in height, topped with either razor or barbed wire shall be installed prior to the commencement of any activity at every well site to secure wellheads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and structures on the well site.

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

c. The Borough's first responders shall be given means to access the well site in case of an emergency via lock box or a Borough-approved equivalent. The applicant must provide the Allegheny County 911 Communications Center with necessary information to access the development or facility in case of an emergency.

d. Warning signs shall be placed on the fencing surrounding the development or facility, providing notice of the potential dangers and the contact information in case of an emergency. During drilling and hydraulic fracturing, clearly visible warning signage must be posted on the well site.

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

f. All oil and gas developments and facilities shall have a minimum front, side and rear yard setback of a minimum of two hundred (200) feet.

g. Any development which abuts a residential use shall provide a ten (10)-foot buffer strip along the affected boundary line(s). All plants shall be selected from species that are hardy in the area and shall be sound nursery stock. Developers will have two options for the buffer strip:

i. Type I Buffer: to consist of a double row of native evergreen conifers and/or American holly planted at oblique lines to one another so that a continuous screen is provided. All trees shall be a minimum of twelve feet in height at the time of planting. Trees which die shall be replaced within six months.

ii. Type II Buffer: A Type II Buffer shall consist of a single row of any species of coniferous tree, shrub or plant that will block a line of sight from the level of existing grade to at least twelve feet in height at time of planting.

h. In addition to screening, the developer shall submit a general landscaping plan, including foundation planting around structures. Any landscaping strip along a Borough right-of-way shall be composed of plantings that will not block clear views for vehicles entering or leaving the premises.

(13) Structure Height. Permanent structures of the oil and gas developments and facilities (both principal and accessory) shall comply with the height regulations of the applicable zoning district.

(14) Oil and gas development facilities.

a. The following requirements shall apply to oil and gas development facilities which employ the use of compressors, motors or engines as part of the operations and/or produce air-contaminant emissions or offensive odors, subsurface facilities, including horizontal drilling facilities, gathering system facilities and production facilities.

i. All noise-generating equipment and processes shall be contained within a completely enclosed building, and windows and doors shall remain closed during operations

ii. Adequate public utilities shall be available to meet the demands of the facility.

iii. The front, rear and side yard requirements shall be a minimum of two hundred (200) feet.

iv. The site shall be designed utilizing natural topography and/or constructed earthen mounds so as to obstruct visibility from adjacent streets and properties.

v. The storage, handling, transportation and disposal of hazardous or potentially hazardous materials shall be in accordance with all applicable permits and requirements of the Code of the Borough of Churchill, the PADEP and the United States Environmental Protection Agency.

vi. Secondary containment shall be provided at sites utilizing liquid separators.

vii. Compressors and other power-driven equipment shall use sparkless electrical motors, when practicable, as an alternative to internal combustion motors.

viii. If an internal combustion engine is used, it shall not be discharged into the open air unless it is equipped with an exhaust muffler or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and disruptive vibrations and the ignition of carbon or soot. All such equipment shall be maintained in good operating condition according to manufacturer's specifications.

ix. A security fence, as specified in Subsection (12), Fencing, screening and buffering, of this subsection, shall be set back at least ten (10) feet from the property line and twenty (20) feet from a public right-of-way.

Section 4.

Chapter 304, Article V, Section 304-37(A) of the Code of the Borough of Churchill, which currently provides:

§ 304-37. Gas or oil production.

A. Gas or oil production is permitted as a conditional use only in C-1 Commercial Districts where the applicant can establish compliance with the terms contained herein.

is hereby repealed in its entirety and replaced by the following:

§ 304-37. Oil and Gas Development.

A. Oil and Gas Development is permitted as a conditional use only in C-1 Commercial Districts where the applicant can establish compliance with the terms contained herein.

Section 5. Use Table.

Table 201 ("Permitted Uses, Conditional Uses, Yard and Area Requirements") of Chapter 304 of the Churchill Borough Code shall be amended to replace the term "Gas and oil well production" with "Oil and Gas Development" as a Conditional Use the C-1 Commercial District only.

Section 6. Effective Date / Repealer

This Ordinance shall become effective immediately upon enactment and shall repeal all prior inconsistent ordinances and resolutions to the extent of such inconsistency.

Section 7. Severability

If a final decision of a court of competent jurisdiction holds any provision of this Ordinance or the application of any provision of this Ordinance to any circumstance to be illegal or unconstitutional, the other provisions of this Ordinance and the application of such provisions to other circumstances shall remain in full force and effect.

ORDAINED AND ENACTED this 1st day of August, 2016.

BOROUGH OF CHURCHILL

President of Council

ATTEST:

Secretary

EXAMINED AND APPROVED this 1st day of August, 2016.

Mayor