

ARTICLE V.I

MINERAL EXTRACTION OVERLAY DISTRICT

§ 20-5.101. FINDINGS

- A. The Board recognizes the need, pursuant to the requirements of the Pennsylvania Municipal Planning Code, to provide for reasonable development of minerals, including coal, oil and gas and other non-coal minerals. (*Ord 2011-12-05, 12/14/11, §1*)
- B. The Board recognizes the need to provide for the reasonable development of minerals to help provide for an economically strong and viable United States of America. (*Ord 2011-12-05, 12/14/11, §1*)
- C. The Board recognizes that its Comprehensive Plan, with respect to mining, calls for “The use of flexible techniques such as performance oriented overlay districts”. (*Ord 2011-12-05, 12/14/11, §1*)
- D. The Board recognizes that mining can result in areas which will be unsuitable for residential construction, those areas being in the less populated northern areas of the Township. (*Ord 2011-12-05, 12/14/11, §1*)
- E. The Board recognizes the need to provide areas of the Township suitable for the expansion of residential housing. (*Ord 2011-12-05, 12/14/11, §1*)
- F. The Board recognizes the need of providing a wide range of economic uses for all private property owners in the Township, whether residential, industrial, commercial or agricultural. (*Ord 2011-12-05, 12/14/11, §1*)
- G. The Board recognizes that mining and oil and gas extraction can result in noise, dust and other environmental risks which can have a negative impact on the health, safety, welfare and morals of Center Township. (*Ord 2011-12-05, 12/14/11, §1*)
- H. The Board recognizes that mining and oil and gas extraction operations can have significant adverse impact on the quality of life in the areas surrounding the mine or extraction areas. (*Ord 2011-12-05, 12/14/11, §1*)
- I. The Board recognizes that mining activities can result in large amounts of heavy truck traffic which can have a negative impact on the health, safety, morals and welfare of the community if not adequately policed. (*Ord 2011-12-05, 12/14/11, §1*)
- J. The Board recognizes that while it has the authority to engage in the traditional zoning of mining and oil and gas extraction, the

Township is in large part precluded from enacting regulations which do not constitute traditional zoning and which are instead within the jurisdiction and authority of the DEP. (*Ord 2011-12-05, 12/14/11, §1*)

- K. The Board Recognizes the need to provide a buffer area between the more heavily populated area of the south of the Township and the more rural area of the north, the latter being the typical location for mining and oil and gas activities. (*Ord 2011-12-05, 12/14/11, §1*)
- L. The Board finds the Overlay District Zoning District contemplated by this Ordinance, balances the need for the development of natural resources within Center Township versus protecting the health, safety, morals, and general welfare of the residents of and visitors to Center Township. (*Ord 2011-12-05, 12/14/11, §1*)

§ 20-5.102. LOCATION OF DISTRICT BOUNDARIES

- A. Overlay District SM (Surface Mining)
 - 1. All that land one hundred feet (100') east of the right-of-way line of SR 8, north of the intersection with Mahood Road, excluding land zoned M-1, Light Industrial, and one hundred feet (100') north of the right-of-way line of Jamisonville Road, Stoney Run Road, Aggas Road and east of Pine Tract Road. Overlay district boundaries abutting interior roads within the district shall be located a minimum of one hundred feet (100') from all recorded rights-of-way. (*Ord 2011-12-05, 12/14/11, §2*)

Editor's Note: This is the same boundary as the original mineral extraction overlay district established by Ordinance No. 2005-06-02.
- B. Overlay District DM (Deep Mining)
 - 1. All that land found in Overlay District SM.
 - 2. All that land one hundred feet (100') east of the right-of-way line of Minich Rd. north of the intersection with Elliott Road, and one hundred feet (100') north of the right-of-way line of Elliott Road and one hundred feet (100') north of the right-of-way line of Pinehurst Road, and one hundred feet (100') east of Pine Tract Road north of the intersection of Pinehurst Road. Overlay district boundaries abutting interior roads within the district shall be located a minimum of one hundred feet (100') from all recorded rights-of-way. (*Ord 2011-12-05, 12/14/11, §2*)

§ 20-5.103. PRINCIPAL PERMITTED USES

- A. Surface mining, including sand and gravel excavation, within OVERLAY DISTRICT AREA SM. (Ord 2011-12-05, 12/14/11, §3)
- B. Deep mining extraction operations within OVERLAY DISTRICT SM. (Ord 2011-12-05, 12/14/11, §3)

§ 20-5.104. PERMITTED ACCESSORY USES

- A. All accessory uses customarily incidental to any permitted principal use.
- B. The storage of explosives, gasoline, oil and other inflammables incidental to any permitted use shall be stored in approved, industry standard tanks or vaults or otherwise stored to provide maximum safety to workmen and the community.
- C. Equipment buildings used for material and vehicle storage or to enclose machinery.

§ 20-5.105. CONDITIONAL USES

- A. Deep mining extraction operations within OVERLAY DISTRICT DM. (see Section 20-1408.A.30) (Ord 2011-12-05, 12/14/11, §4)
Exception: Deep mining extraction operations located within OVERLAY DISTRICT SM is a permitted use.
- B. Oil and gas extraction located within OVERLAY AREA SM is a permitted use. (Ord 2011-12-05, 12/14/11, §4)

§ 20-5.106. LOT, YARD, HEIGHT REQUIREMENTS

- A. Minimum Yard Setbacks:
 - 1. Front yard – Two hundred and fifty feet (250') from street right of way line. (Ord 2011-12-05, 12/14/11, §5)
 - 2. Rear yard – Two hundred and fifty feet (250'). (Ord 2011-12-05, 12/14/11, §5)
 - 3. Side yard – Fifty feet (50'), two (2) required. (Ord 2011-12-05, 12/14/11, §5)
 - 4. Accessory structures used to store explosives, gasoline, oil and other inflammables – Two hundred and fifty feet (250') all yards. (Ord 2011-12-05, 12/14/11, §5)

5. All other Accessory structures -Two hundred and fifty feet (250') front and rear yard(s) and fifty feet (50') side yard(s). *(Ord 2011-12-05, 12/14/11, §5)*

EXCEPTION: All structures, whether permanent or temporary, must not only meet the above " Minimum Yard Setbacks", but must also set back at least one and one half (1 ½) times the height of the structure.

- B. Minimum Lot Frontage – Fifty feet (50') for purposes of establishing a right-of-way for access to the extractive industry site. *(Ord 2011-12-05, 12/14/11, §5)*
- C. Maximum Lot Coverage – None *(Ord 2011-12-05, 12/14/11, §5)*
- D. Maximum Building Height:
 1. For unoccupied structures and mechanical equipment - None *(Ord 2011-12-05, 12/14/11, §5)*
 2. For unoccupied accessory structures – None *(Ord 2011-12-05, 12/14/11, §5)*
 3. For all occupied structures, maximum thirty five feet (35'). *(Ord 2011-12-05, 12/14/11, §5)*
- E. Site Development Standards – In addition to the regulations of the Nonresidential Performance Standards in Section 20-1302, any permitted principal overlay district or accessory use shall be subject to the following:
 1. Structure – It shall be carried on in such a manner with such precautions against fire and explosion as to produce no exposure hazard to a use on an adjacent property. *(Ord 2011-12-05, 12/14/11, §5)*
 2. Water Use – Any water utilized for permitted principal overlay district or accessory uses which is drawn from underground sources must be set back more than fifty feet (50') from the closest property boundary. *(Ord 2011-12-05, 12/14/11, §5)*
 3. Liquid Waste – Permit from Department of Environmental Protection and the Butler Area Sewer Authority agreeing to accept the waste flow. *(Ord 2011-12-05, 12/14/11, §5)*
 - a. All requirements of the Pennsylvania Department of Environmental Protection shall be met in the construction and operation of all on-site extractive industry liquid sewage disposal plants. *(Ord 2011-12-05, 12/14/11, §5)*

- b. If an extractive industry operation is connected to a public sewage system, the owners shall provide the operators of the public sewage system a chemical analysis of the proposed sewage, and the operator has the right to refuse entrance into the system of any sewage components that may interfere with normal cycle of the sewage treatment plant. (*Ord 2011-12-05, 12/14/11, §5*)
- c. In no case shall liquid wastes be dumped or permitted to flow or seep into a stream or drainage way. d. Liquid wastes that cannot be disposed of on the site shall not be permitted to accumulate and shall be removed off-site at least once per week. (*Ord 2011-12-05, 12/14/11, §5*)
- 4. Hazardous Waste – Hazardous waste shall not be permitted to accumulate on any property, and their disposal shall be in compliance with applicable Commonwealth of Pennsylvania Hazardous Waste regulations. (*Ord 2011-12-05, 12/14/11, §5*)
- 5. Property Maintenance – All areas of any property upon which mineral extraction activities are being conducted shall be maintained free from the exterior accumulation of, but not limited to; material, machine parts, trash, garbage, animal (excluding undomesticated wildlife) or human excrement, rubbish, junk, junk equipment, junk vehicles. (*Ord 2011-12-05, 12/14/11, §5*)

§ 20-5.107. ADDITIONAL STANDARDS

- A. All permitted, conditional, and accessory uses for the Overlay Extraction Districts (SM and DM) shall comply with the provisions of Section 20-1308 of this Chapter. (*Ord 2011-12-05, 12/14/11, §6*)
- B. All permitted, conditional, and accessory uses for the Mineral Overlay Extraction Districts (SM and DM) shall comply with the provisions of Section 20-1310 of this Chapter. (*Ord 2011-12-05, 12/14/11, §6*)
- C. All permitted, conditional, and accessory uses in the Mineral Extraction Overlay Districts shall be considered a Land Development and must comply with the provisions of the Township's Subdivision and Land Development Chapter 14. (*Ord 2011-12-05, 12/14/11, §6*)
- D. All surface penetrations needed for deep mining must be located within the SM or DM OVERLAY DISTRICTS and at least one

thousand feet (1,000') from any occupied structure. (Ord 2011-12-05, 12/14/11, §6)

- E. Mine shaft openings must be located inside the SM or DM OVERLAY DISTRICTS and at least one thousand feet (1000') from any occupied structure. (Ord 2011-12-05, 12/14/11, §6)
- F. At least 30 days prior to the beginning of extraction operations, the applicant shall provide an appropriate site orientation and training course for all emergency responders. Cost and expense shall be sole responsibility of the operator. These activities must be held, at minimum, annually. (Ord 2011-12-05, 12/14/11, §6)
- G. A reasonable number of well maintained portable chemical toilet facilities must be available on site at all times. (Ord 2011-12-05, 12/14/11, §6)
- H. All dogs must be kept in compliance with Chapter 1 of the Center Township Codification of Ordinances. All other animals are prohibited. (Ord 2011-12-05, 12/14/11, §6)
- I. All truck traffic to and from site must cease between the hours of 9PM and 6AM weekdays and Saturdays, and all hours of the day and night Sundays and Legal Holidays. (Ord 2011-12-05, 12/14/11, §6)

EXCEPTION: Written permission may be granted, at the discretion of the Zoning Officer, for occasional truck traffic during non compliant times. All requests must be in writing and received by the Township at least 60 days prior to start of non compliant activities. Notification of affected neighbors will be done by the Township and cost of notification billed to the operator. All expenses incurred by the Township for granting of written permission must be paid by the operator at least 60 days prior to the date of the event.

- J. All site activity must cease between the hours of 9PM and 6AM weekdays and Saturdays, and all hours of the day and night Sundays and Legal Holidays. (Ord 2011-12-05, 12/14/11, §6)

EXCEPTION: Written permission may be granted, at the discretion of the Zoning Officer, for occasional site activity during non compliant times. All requests must be in writing and received by the Township at least 60 days prior to start of non compliant activities. Notification of affected neighbors will be done by the Township and cost of notification billed to the operator. All expenses incurred by the Township for granting of written permission must be paid by the operator at least 60 days prior to the date of the event.

§ 20-5.108. APPLICABILITY

It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any mineral extraction activity including without limitation, oil and gas extraction anywhere within any zoning district unless a Permit has been obtained from the Center Township Zoning Officer or his Deputy. (*Ord 2011-12-05, 12/14/11, §7*)

§ 20-5.109. ABROGATION AND GREATER RESTRICTIONS

This Article supersedes any other conflicting provisions which may be in effect in the Mineral Extraction Overlay Districts. However, any other regulations shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Article, the more restrictive shall apply. (*Ord 2011-12-05, 12/14/11, §8*)

§ 20-5.110. WARNING AND DISCLAIMER OF LIABILITY

This Article shall not create liability on the part of the Township or any officer or employee thereof for any damages that result from reliance on this Article or any administrative decision lawfully made there under. (*Ord 2011-12-05, 12/14/11, §9*)

§ 20-5.111. OPERATOR'S AGENT

Every Operator of any mineral extraction or oil and gas extraction activity shall designate an agent, who is a resident of Pennsylvania, upon whom all orders and notices provided in this Article may be served in person or by registered or certified mail. Every Operator so designating such agent shall within ten (10) days notify the Township in writing of any change in such agent or such mailing address unless operations within the Township are discontinued. Agent must have a physical address. Post Office boxes will NOT be accepted. (*Ord 2011-12-05, 12/14/11, §10*)

§ 20-5.112. PERMITS REQUIRED

Permits shall be required before any construction or development is undertaken within any area of the Township. (*Ord 2011-12-05, 12/14/11, §11*)

§ 20-5.113. ISSUANCE OF A PERMIT(S)

- A. The Center Township Zoning Officer, or his Deputy, shall issue permits only after it has been determined that the proposed work to be undertaken will be in conformity with the requirements of this and all other applicable codes and ordinances. (*Ord 2011-12-05, 12/14/11, §12*)
- B. The Zoning Officer shall be responsible for determining whether a property or a portion thereof proposed for development or

improvement is within the applicable zoning districts or zoning overlay districts and what measures must be taken to meet the requirements of this Article. Any grading or filling of land even though no well head or mining is contemplated shall require a permit. (*Ord 2011-12-05, 12/14/11, §12*)

- C. When permits or approvals are required by other governmental agencies according to applicable laws and regulations of those agencies, the developer must obtain and furnish documented proof of the required permits and/or approvals to the Township. No permit shall be issued until this determination has been made. (*Ord 2011-12-05, 12/14/11, §12*)
- D. No encroachment, alteration, or improvement of any kind shall be made until all adjacent municipalities which may be affected by such action have been notified by the Township, and until all required permits or approvals have been first obtained. (*Ord 2011-12-05, 12/14/11, §12*)
- E. All road bond and/or maintenance agreements must be approved by the Township prior to the issuance of a Permit. All payments shall be made by certified check. (*Ord 2011-12-05, 12/14/11, §12*)

§ 20-5.114. APPLICATION PROCEDURES AND REQUIREMENTS

Application for such a permit shall be made in writing, to the Zoning Officer. Such application shall contain the following:

- A. All applicable fees. (*Ord 2011-12-05, 12/14/11, §13*)
- B. Completed and signed application form containing at least the following information: (*Ord 2011-12-05, 12/14/11, §13*)
 - 1. Date of the application (*Ord 2011-12-05, 12/14/11, §13*)
 - 2. Proposed site name (*Ord 2011-12-05, 12/14/11, §13*)
 - 3. Site location.(Street address approved by the Township and County 911) (*Ord 2011-12-05, 12/14/11, §13*)
 - 4. Surface owner names(s) and address(es) of the lease property (*Ord 2011-12-05, 12/14/11, §13*)
 - 5. Mineral Lessee name and address (*Ord 2011-12-05, 12/14/11, §13*)
 - 6. Applicant/Operator name and address and if the Operator is a corporation, the state of incorporation, address, officer's names and addresses, registered agent and address and Articles of Incorporation; and if the Operator is a partnership, the names and addresses of the general. (*Ord 2011-12-05, 12/14/11, §13*)

7. Name and address of individual designated to receive notice (Operator's Agent). Must be a physical address. Post Office boxes will NOT be accepted. *(Ord 2011-12-05, 12/14/11, §13)*
 8. Name of Operator representative with supervisory authority over all operation site activities and a 24-hour phone number. *(Ord 2011-12-05, 12/14/11, §13)*
 9. The name, address and 24-hour phone number of the person to be notified in case of an emergency. *(Ord 2011-12-05, 12/14/11, §13)*
 10. The exact acreage of the site and number of wells (if well heads involved). *(Ord 2011-12-05, 12/14/11, §13)*
- C. A notarized statement signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct. *(Ord 2011-12-05, 12/14/11, §13)*
 - D. Proof of all applicable Bonding, Letters of Credit, Indemnity, Insurance, etc. *(Ord 2011-12-05, 12/14/11, §13)*
 - E. Listing of other permits required. *(Ord 2011-12-05, 12/14/11, §13)*
 - F. Signed and recorded land development mylar. *(Ord 2011-12-05, 12/14/11, §13)*
 - G. Verification that a copy of the operation's Preparedness, Prevention and Contingency Plan has been provided to the Township and all Emergency Responders. Also an affidavit signed by the applicant stating the Township will be notified in writing of any and all changes to the Plan within 1 business day. *(Ord 2011-12-05, 12/14/11, §13)*
 - H. Signed Excess Maintenance Agreement and bond. *(Ord 2011-12-05, 12/14/11, §13)*

§ 20-5.115. PLACARDS

In addition to Permit(s), the Zoning Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the permit(s), the date(s) of issuance, and be signed by the Zoning Officer. *(Ord 2011-12-05, 12/14/11, §14)*

§ 20-5.116. START OF CONSTRUCTION

Work on the proposed construction and/or development shall begin within three (3) months and shall be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted in writing by the Zoning Officer. Construction and/or development shall be considered to have started

with the preparation of land, land clearing, grading, filling, or excavation for the site. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Zoning Officer to approve such a request. (*Ord 2011-12-05, 12/14/11, §15*)

§ 20-5.117. INSPECTION AND REVOCATION

- A. During the construction period, the Zoning Officer or other authorized official shall inspect the site to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Township laws and regulations. He/She shall make as many inspections during and upon completion of the work as are necessary. (*Ord 2011-12-05, 12/14/11, §16*)
- B. The Zoning Officer shall have the authority to request and receive any records relating to the status or condition of any permitted mineral extraction including oil and gas extraction necessary to establish and determine compliance with the applicable Permit(s). Failure of any person to provide any such requested material shall be deemed a violation of this Article. (*Ord 2011-12-05, 12/14/11, §16*)
- C. In the discharge of his duties, the Zoning Officer shall have the authority to enter any building, structure, premises or development in the identified site, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Article. (*Ord 2011-12-05, 12/14/11, §16*)
- D. In the event the Zoning Officer discovers that the work does not comply with the permit application or any applicable laws and regulations, or that there has been a false statement or misrepresentation by any applicant, the Zoning Officer shall revoke the permit and report such fact to the Board of Supervisors for whatever action it considers necessary. (*Ord 2011-12-05, 12/14/11, §16*)
- E. A record of all such inspections and violations of this Article shall be maintained. (*Ord 2011-12-05, 12/14/11, §16*)

§ 20-5.118. FEES

Application fees for a building permit shall be, as established from time to time, by resolution of the Center Township Board of Supervisors. Additional fees may apply to cover cost of notification of neighbors due to afterhours truck traffic and/or other operations approved by the Zoning Officer. (*Ord 2011-12-05, 12/14/11, §17*)

§ 20-5.119. NOTICES AND PENALTIES

Notices: Whenever the Zoning Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Article, or of any regulation adopted pursuant thereto, the Zoning Officer shall take actions consistent with the Township Zoning Ordinance. Any and all violations of the Pennsylvania Uniform Construction Code will be referred to the Township Building Code Official for review and enforcement. (*Ord 2011-12-05, 12/14/11, §18*)