

No. _____

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending and supplementing the Allegheny County Code of Ordinances, Division 6, entitled "Parks and Recreation," through the creation of a new sub Chapter 680, entitled "Certain Agreements Prohibited," in order to restrict the leasing, sale and/or any other agreements that would permit or otherwise facilitate private and/or public entities engaging in any minerals and natural gas extraction-related activities within Allegheny County's parks.

Whereas, while the intent of Council is to limit disruptions to natural features within the County Parks, Council also recognizes that under some circumstances, permitting activities that do not impact the surface of a County Park may be beneficial, as was the case with leasing County mineral and natural gas rights under Deer Lakes Park, which has generated just over \$15.8 million in revenue for the County from 2014 through May 31, 2022; and

Whereas, Council further recognizes that careful consideration of subsurface mineral and natural gas rights leasing can, under the right circumstances, provide the County (as an owner of significant acreage in the County Parks) with increased ability to negotiate more favorable terms and/or more environmentally sound conditions than are usual in minerals and natural gas rights leases, and which beneficially impact all property owners in the vicinity of a County Park; and

Whereas, in the event any lease of subsurface rights that do not impact the surface of a County Park is deemed to be in the public interest, it is the intent of Council to mandate terms and conditions to be included in any such lease for the purpose of enhancing the protection, use and enjoyment of, not only such County Park, but of property in the vicinity of any such County Park; and

Whereas, such required terms and conditions must address water and air quality, noise reduction, lighting restrictions, and traffic restrictions in around any County Park.

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

SECTION 1 ***Amendment of the Code.***

The Allegheny County Code of Ordinances, Division 6, entitled “Parks and Recreation,” is hereby amended and supplemented through the creation of a new Chapter 680, entitled “Certain Agreements Prohibited,” and comprised as follows:

Chapter 680
Certain Agreements Prohibited

§680-1. Intent.

It is the intent of the County of Allegheny is to recognize and embrace its obligations as the trustee of County-owned park lands and to protect such lands from surface activity related to mineral and natural gas extraction. Allegheny County parks are a public, natural resource and intended solely for the recreational use and enjoyment of people and, to provide for the preservation and conservation of all life forms that reside within.

Pursuant to the Pennsylvania Constitution at Article I, Section 27, these park lands are the common property of all the people, including generations yet to come. As the trustee of the county’s parks, the county shall conserve and maintain them for the benefit of all of the people in perpetuity.

§680-2. Prohibition.

Allegheny County shall be prohibited from entering into any lease, sale and/or any other agreements that would permit or otherwise facilitate private and/or public entities to engage in any mineral or natural gas extraction-related activities on the surface of any lands Allegheny County has designated as a park.

Prohibited activities shall also include but, are not limited to, any activities on the surface property of any County Park which relate to the mining of minerals or natural gas extraction by conventional or unconventional (commonly known as “fracking”) means and/or utilization of any other extractive technologies and/or methods, quarrying, and/or aggregate extraction, that are not directly associated with the public’s recreational use and enjoyment of county parks.

Allegheny County shall likewise be prohibited from entering into any subsurface mineral and/or natural gas leases with any individual or entity which has been determined by the Pennsylvania Department of Environmental Protection, the United States Environmental Protection Agency, or

the Allegheny County Health Department to have committed repeated and substantive violations of state, Federal or local law.

§680-3 Subsurface lease requirements.

To the extent that any subsurface rights relating to any mineral and/or natural gas ownership beneath a County Park are leased to any individual or entity, the passage of a motion of resolution by the governing body of any and all municipalities in which the County Park is located expressing approval of the leasing of such rights shall be required prior to the entry into any such lease. Furthermore, any lease granting such rights shall contain, but not be limited to, lease terms and conditions:

- a. Prohibiting any extraction-related activities on the surface acreage of the County Park real property;
- b. Requiring compliance with all laws and regulations applicable within the Commonwealth of Pennsylvania, the County of Allegheny, and any applicable municipal entity;
- c. Prohibiting any material and adverse impact on any surface waters located within any County Park and within any real property within a unit in which the County Park property is included, and to require necessary testing prior to, during and after extraction activities, to determine any such degradation;
- d. Containing a presumption that any determined water degradation within the County Park or any real property within a unit which includes the County Park, is the fault of the lessee and a requirement that complete remediation of any such degradation be performed by the lessee at lessee's expense;
- e. Requiring air quality testing to be performed by the Allegheny County Health Department in and in the vicinity of the County Park, the scope and nature of such testing to be determined by the Allegheny County Health Department;
- f. Containing a presumption that any determined air quality degradation within the County Park or any real property within a unit which includes the County Park, is the fault of the lessee and a requirement that complete remediation of any such degradation be performed by the lessee at lessee's expense;
- g. Prohibiting any disposal well or other device or means of disposal of wastes or drilling liquids with the County Park;
- h. Prohibiting the use of water from any wells, ponds, lakes, springs, creeks, water courses or reservoirs in the County Park;

- i. Prohibiting geophysical or seismic tests within the County Park;
- j. Requiring the coordination of all vehicular traffic with the applicable municipal entities and school districts to minimize the impact on school bus traffic on school days;
- k. Requiring the lessee to obtain all road bonds deemed necessary by the Commonwealth, County, and/or applicable local municipalities concerning the use, maintenance and repair of road utilized by the lessee;
- l. Requiring the establishment of a continuous seventy-two hour ambient noise level one hundred feet from the nearest occupied residential building for noise resulting from any extraction-related activities;
- m. Requiring the use of equipment with fully shielded lighting consistent with Occupational Safety and Health Administration (“OSHA”) regulations and requiring that well site lighting be directed downward and shielded to both prevent direct illumination of and minimize glare on streets and buildings;
- n. Requiring that any lessee prevent wildlife access by erecting and maintaining fences, netting, or by other reasonably appropriate means;
- o. Requiring any lessee to arrange for at least two (2) job fairs at educational institutions in the vicinity of the County Park to educate the public on employment opportunities available both related to the lease activities and in the extraction industry in general; and
- p. Such other terms and conditions that may be deemed prudent and necessary by the Allegheny County Solicitor and/or counsel and consults retained thereby.

§680-4. Effect on Existing Agreements.

The provisions of §680-2 and §680-3 shall not be read, interpreted, or otherwise deemed to have any effect upon any lease, memorandum of understanding, or other contractual agreement relating to the use of County-owned park property in force as of the effective date of this Chapter. The provisions of §680-2 and §680-3 shall, however, apply to any extension or amendment expanding the scope of an existing agreement and/or any new or successive agreement.

SECTION 2. Effective Date. The provisions of this Ordinance shall become effective immediately upon final approval.

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

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

PRIMARY SPONSORS: COUNCIL MEMBERS WALTON, FUTULES and MACEY

CO-SPONSORS:

Enacted in Council, this _____ day of _____, 2022,

Council Agenda No. _____.

Patrick Catena
President of Council

Attest: _____

Jared Barker
Chief Clerk of Council

Chief Executive Office _____.

Approved: _____

Rich Fitzgerald
Chief Executive

Attest: _____