

No. 19-22-OR

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 prohibit the leasing, sale and/or any other agreements that would permit or otherwise facilitate private and/or public entities engaging in any industrial or commercial land uses within Allegheny County's parks.

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 commercial or industrial uses. 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 industrial or commercial land uses, on the surface or below the surface of any lands Allegheny County has designated as a park.

Prohibited activities include but, are not limited to, mining of minerals, natural gas extraction by conventional or unconventional (commonly known as “fracking”) means and/or utilization of any other extractive technologies and/or methods, quarrying, aggregate extraction, commercial forestry, private or public housing, and/or any other land uses that are not directly associated with the public’s recreational use and enjoyment of county parks.

§680-3. Effect on Existing Agreements.

The provisions of §680-2 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 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 MEMBER HALLAM

CO-SPONSORS: COUNCIL: MEMBERS PRIZIO, BENNETT, BETKOWSKI and NACCARATI-CHAPKIS

Enacted in Council, this 5th day of July, 2022,

Council Agenda No. 12162-22.



Patrick Catena
President of
Council

Attest: 

Jared Barker
Chief Clerk of Council

Chief Executive Office _____.

Approved: _____
Rich Fitzgerald
Chief Executive

Attest: _____
Sonya Dietz

COUNTY OF



RICH FITZGERALD
COUNTY EXECUTIVE

RECEIVED
ALLEGHENY COUNTY COUNCIL
2022 JUL 12 PM 6:01

July 12, 2022

The Honorable Pat Catena, President and
Members, County Council
119 County Courthouse
436 Grant Street
Pittsburgh, PA 15219

President Catena:

In accordance with Article IV, Section 5 h) of the Allegheny County Home Rule Charter, I hereby return, with my veto, County Council Bill No. 12162-22 (“Chapter 680 – Certain Agreements Prohibited”).

Since taking office, I have consistently championed and funded our parks at unprecedented levels. Along with Council, we have continued to fund needed improvements and enhancements in our parks. We have also raised private funding, entered into public-private partnerships to add amenities, aggressively pursued grant funding for new projects, and continue to work with the Allegheny County Parks Foundation on large, signature projects in our parks system.

Our parks system is a jewel of county government and one that I have not and would never compromise. In 2013, we were approached by Range Resources because gas production was occurring on parcels all around the park. While that work was moving forward regardless of the county’s participation, they were interested in negotiating to access the natural gas under the park. In talking with the community, we learned that the vast majority of residents in the community, as well as stakeholders, supported the project and wanted the county’s participation too. Both Frazer and West Deer passed resolutions asking us to participate. In 2013 and 2014, we worked with Council to achieve enhanced environmental and community protections unheard of in the natural gas extraction field because we were at the table. The final lease expanded DEP water testing requirements, required planning with local school districts to avoid school bus routes to further protect children, provided that there must be coordination with local fire departments regarding safety plans, included noise and light reduction provisions to minimize impacts on the Wagman Observatory, and an obligation to implement industry best practices for all aspects of operations during the course of the lease.

OFFICE OF THE COUNTY EXECUTIVE

101 COURTHOUSE • 436 GRANT STREET • PITTSBURGH, PA 15219 • PHONE (412) 350-6500 • FAX (412) 350-6512
WWW.ALLEGHENYCOUNTY.US • EXECUTIVE@ALLEGHENYCOUNTY.US

The company is also responsible for all necessary repairs to portions of county roads utilized by them for their operations. The lease also required the operators to conduct at least two job fairs for county residents – and students – to learn about employment opportunities in the industry. The Deer Lakes Park project not only resulted in significant revenues to reinvest in our parks, but it established the benchmark by which other public leases are measured. And all of this was done while ensuring that no drilling activity would take place within the park itself but would rather be confined to a location outside the park that was to be utilized for natural gas extraction from other private property. And to underscore that point, that drilling was occurring regardless of whether the county leased its rights.

Together with Council, \$2 million of the bonus payment and 10% of parks improvement funds were specifically dedicated to Deer Lakes with the remaining funds spread across the other eight parks. That funding paid for a number of improvements including the installation of a Naturally Engineered Wastewater Treatment (NEWT) system, new flush bathrooms, new playground and shelter at the park portal, shade structures at the existing playground, green parking solutions, outdoor exercise equipment, the addition of electricity to shelters, path and landscape improvements and lake improvements including vegetation control and removal of invasive weeds.

I fully endorse and support energy independence and a move from fossil fuels to sustainable, clean energy. That said, the necessary transition cannot be accomplished overnight, and we must create a path to that goal. This is a community that welcomes, embraces and invests in green energy and sustainability and the county has been a leader on that front. Our support for protecting the environment has been this administration's policy for the last 11 years. We have reduced our reliance on fossil fuels and reduced our carbon footprint. Between 2015 and 2020, carbon emissions from building energy use alone dropped by 16% - a reduction equivalent to the amount emitted by 1,275 passenger vehicles in one year.

We have moved purposefully to use renewable energy sources in our buying, as well as in our own building and development. We signed a historic power purchase agreement to purchase renewable electricity from a run-of-river hydroelectric facility. The 35-year agreement means more renewable energy will be generated in this region, creating a path for users to move to fully renewable energy. It will also offset emissions equivalent to the entire electrical consumption of 3,400 households. White Oak and Deer Lakes parks are part of the Net Zero Energy Parks initiative. We continue to purchase and use alternative fuel and electric vehicles and have a team focused on sustainability across all county departments. Natural gas continues to be part of that path. It lowers our carbon footprint and is a vital cleaner energy option that has helped this county to innovate and grow green jobs.

As I have stated repeatedly, I have no plans to enter into a lease to allow any drilling related activity on or under any of our parks. Consideration of natural gas rights leasing should be conducted on a case-by-case basis by the leaders elected to make those decisions. While I have no plans to lease any further gas rights at this time, and while a majority of Council may currently oppose such plans, those things could

change in the future. I firmly believe that both sides should have the ability to enact legislation they deem necessary to serve the interests of the residents of this county, even if the executive and legislative branches disagree. And that is certainly the case when other involved governmental bodies are supportive of such efforts.

Contrary to what many members of Council have represented, this bill does not prevent the leasing of natural gas extraction rights or even drilling activities within our parks. Any legislation authorizing natural gas extraction under land owned by the county would act as a repeal of this legislation. In other words, members of Council cannot do what they claim they are doing. This bill is an exercise in bad government and is political theater.

If the goal of this effort is to truly protect property and restrict the leasing, sale or other agreements that would allow for the extraction of any minerals or natural gas under county parks, then Council should act on legislation that does that. The restriction on county property outlined in this bill doesn't accomplish that and may also mean that we don't even have the opportunity to engage in any conversation. If you are serious about protecting the environment and the community, then act on legislation like Bill No. 12357-22. The draft bill prevents surface drilling and thus protects the environment. It leaves the door open for the lease of subsurface rights – 7,000 feet below county property – which allows the county to be at the table to negotiate even more protections. It requires the local governments in which any prospective project is located to officially vote in support of a project before anything would move to the county for consideration. It requires that the county mandate terms and conditions to be included in any such lease, including bad actor provisions and other benefits that the community may want to see. All of those things together enhance the protection, use and enjoyment of, not only the county park, but of property in the vicinity of that park.

This legislation takes the county out of any participation in protecting the environment. As stated previously, there has not been energy production, trucking, water use, or any other operations on any of our nine county parks. And there is no intention to do so. There is, however, all of that disruption in the property next to our parks. It exists now and will in the future. Taking the county away from protecting the communities which we were elected to represent is bad policy.

Having our voice at the table enables these communities to have:

- Base line water testing, before, during, and after energy extraction; ensuring that the companies are held liable for any increased pollution.
- Air monitoring during the time high speed and noisy industrial machinery is in use.
- Limiting Hours of operation and noise limitations on the machinery used.
- Limiting Hours of operation and light limitations preventing light pollution at night.
- Gives local municipalities and their elected officials a seat at the table for other local benefits.
- Bad actor provisions to prevent irresponsible energy producers from participating and doing damage to the community.

- Dust and debris limitations.
- Hours of trucking limitations to improve safety during school hours or other community activities.
- Job fairs for local students and local people looking for work.
- Other benefits specific to a local community.

Again, the passage of Bill No. 12162-22 by Council has removed the county from any role in protecting the environment and our parks. Elected members of the executive and legislative branch should be at the table and this legislation removes our collective ability to do so. For the aforementioned reasons, I have vetoed County Council Bill No. 12162-22.

Sincerely,



Rich Fitzgerald



COUNTY OF ALLEGHENY

OFFICE OF THE COUNTY COUNCIL

119 COURTHOUSE · 436 GRANT STREET
PITTSBURGH, PA 15219
PHONE (412) 350-6490 · FAX (412) 350-6499
COUNCIL@COUNTY.ALLEGHENY.PA.US
WWW.COUNTY.ALLEGHENY.PA.US/COUNCIL

Memorandum

To: File
From: Jared E. Barker, Chief Clerk
Date: July 20, 2022
Re: Override of Chief Executive Veto, Bill No. 12162-22

I hereby certify that, in accordance with the provisions of Article IV, §2(e) of the Home Rule Charter of Allegheny County, §5-311.07.D. of the Administrative Code of Allegheny County, and the Rules of Allegheny County Council, the Chief Executive's veto of Bill No. 12162-22 was overridden on July 19, 2022 via the passage of Bill No. 12375-22 by a vote of 12 to 3, as follows:

- Ms. Bennett; Aye
- Mr. Betkowski; Aye
- Mr. DeMarco; Nay
- Mr. Duerr; Aye
- Ms. Filiaggi; Nay
- Mr. Futules; Nay
- Ms. Hallam; Aye
- Mr. Klein; Aye
- Mr. Macey; Aye
- Ms. Naccaratti-Chapkis; Aye
- Mr. Palmiere; Aye
- Mr. Palmosina; Aye
- Ms. Prizio; Aye
- Mr. Walton; Aye
- Mr. Catena; Aye

The provisions of Bill No. 12162-22 therefore become effective as provided for in Section 2 of that ordinance.

A blue ink signature of Jared E. Barker, Chief Clerk of Allegheny County Council.

Jared E. Barker, Chief Clerk
Allegheny County Council