

CITY COUNCIL OVERSIGHT COMMITTEE MEETING

**MULTI-PURPOSE ROOM – MUNICIPAL BUILDING
201 WEST GRAY**

THURSDAY, NOVEMBER 13, 2014

5:00 P.M.

- 1. CONTINUED DISCUSSION REGARDING POSSIBLE ORDINANCE AMENDMENTS TO CHAPTER 13, SECTION 13-1501, et. seq., OIL AND GAS WELL REGULATIONS.**

- 2. MISCELLANEOUS PUBLIC COMMENTS.**



To: City Council Oversight Committee

From: Susan Connors, Director of Planning and Community Development
Leah Messner, Assistant City Attorney *Leah Messner*

Date: November 7, 2014

Subject: Proposed Oil and Gas Ordinance Amendments

BACKGROUND:

At the November 13, 2013 Oversight Committee meeting, the committee members discussed oil well site security. The Committee requested that Staff prepare information on the City of Norman's well site safety policy. Staff prepared a report on this that was distributed to City Council members in December, 2013. This topic was then placed on the Oversight Committee's May 14, 2014 agenda. At that meeting Staff presented background information on the history of the City's oil well site security and fencing language in the current Code. Changes to the current Code language regarding fencing, screening, and security were discussed at that meeting by the Oversight Committee.

The Committee discussed and supported fencing around well sites and directed Staff to draft a revised Ordinance incorporating the requested changes as well as a phasing-in period requiring older well sites to comply. The Committee also requested information regarding the average cost for fencing around well sites. Staff was also asked to get feedback from those in the affected industry. The Committee requested Staff bring back information to a future Council Conference. Staff met with industry representatives in June to get their feedback on the proposed changes to fencing and oil and gas well security.

City Council discussed oil and gas well fencing at their conference on August 26, 2014. They provided input to Staff and asked that Staff seek additional input from oil well operators and mineral interest owners.

On September 18, 2014 the Oversight Committee held another meeting to discuss oil and gas issues. The main topic of this meeting was oil and gas well regulations in the Lake Thunderbird Watershed. The Committee requested that Staff prepare additional information based on their discussion. The items of information requested for investigation were the following:

1. Research other cities insurance requirements
2. Provide specific language on location distance from ground water
3. Spill contingency plans with permit – may consider engineering solutions in WQPZ if meeting additional requirements
4. Look at entire floodplain, not just floodway
5. Consider only steel containment for tanks batteries

office memorandum

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6. Storage of chemicals in original containers
7. Water diversion during the drilling process
8. Best practices

The Oversight Committee also requested that Staff again meet with industry representatives to discuss ideas and get their feedback. City Staff met on October 23, 2014 with thirteen companies represented. Staff went page by page to discuss the proposed amendments. Included with this Memorandum is a chart that identifies the issues raised by industry representatives. The City Attorney's Office also received a Memorandum of Law from the legal representatives of Norman well operators which puts forth their view of municipal regulatory authority over the oil and gas industry. The Legal Department is reviewing that Memorandum.

DISCUSSION:

Attached is a draft ordinance that incorporates the changes suggested by the Council on August 21, 2014 and by the Oversight Committee at their September 18, 2014 meeting as well as suggestions from Staff regarding language to clean up and/or modernize the oil and gas ordinance. In addition, Staff incorporated feedback from the local oil and gas well operators at a meeting on October 23, 2014. The ordinance amendments and the feedback from the operators are discussed in the following paragraphs.

Section 13-1501: Permits Required

In Section 13-1501, Staff suggests adding the word 'fee' to Section (a)(1) for clarity and suggests increasing the re-entry permit fee from \$1,000.00 to \$3,000.00 in order to be more consistent with the other assessed fees. Staff also suggests deleting the phrase 'In addition to the information required in Article I of this chapter' in Section (b) because the provisions in Article I apply to licenses issued by the City Clerk's Office rather than oil and gas drilling permits issued by the Department of Planning and Community Development.

Section (b)(6) is proposed to be amended to require the operator to submit a statement for the provision of water for both the drilling rig and completion operations. Section (b)(7) has new language requiring review by the City of Norman for compliance with the Water Quality Protection Zone ordinance and approval from the Oklahoma Corporation Commission prior to issuance of an oil and gas drilling permit. This language in Section (b)(7) reflects feedback received by the Oversight Committee at their September 18, 2014 meeting. The remaining language in this section is proposed to be deleted to be more consistent with current Oklahoma Corporation Commission permitting standards and to remove unnecessary language regarding permission to access disposal sites. Section (b)(8) deletes the requirement for the names of surface lease owners as Staff believes only the names of the surface owners are necessary.

Sections (b)(12)-(14) are all new language. Section (12) requires a signed surface's owner statement or a court proceeding allowing drilling on the property. Section (13) requires maps and drawings showing the means for diverting surface water away from the drilling site. Section (14) requires a statement regarding an operator's willingness to provide the Oil and Gas

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Inspector the Spill Prevention Control and Countermeasure Plan upon his request. The new language in Section (13) and (14) was requested by the Oversight Committee. The provisions that are proposed to be deleted from Section (c) are proposed to be deleted they are already required to be submitted to the Oklahoma Corporation Commission and subsequently to the Oil and Gas Inspector as required by Section (b)(4). Finally, language has been added to Section (d) allowing the Oil and Gas Inspector to request to view the annual inspection sheet required by the Environmental Protection Agency in conjunction with the Spill Prevention Control and Countermeasure Plan. This language was also requested by the Oversight Committee.

Section 13-1502: Blanket Bond, Blanket Irrevocable Letter of Credit, or Cash Required

This Section is proposed to be amended to allow operators to submit cash payments instead of a bond or letter of credit. This language has been added at the request of the operators. It is also proposed to be amended to allow surface property owners to agree to the level of restoration of the property when a well is plugged and abandoned. Occasionally, surface property owners prefer that their property not be restored to predrilling conditions for various reasons. This amendment would allow them to agree in writing to how much surface restoration they wish to occur. This section has also been cleaned up to specify 'plugging and abandonment' rather than just 'abandonment' because plugging is the proper antecedent to abandonment. In addition, a typo has been corrected to 'operates' instead of 'operators'.

Section 13-1502.1: Insurance Requirements

The Oversight Committee requested that Staff review insurance requirements in oil and gas ordinances from other cities. A review of those ordinances, in the form of a chart, is attached to this memo. In addition, Staff suggests amending this section to delete the lower insurance coverage provision for stripper wells and to add language clarifying that all policies shall be endorsed to include the City of Norman as an additional insured. Another area of amendment might be to increase the limits for bodily injury in (2)(a) to \$125,000 to be consistent with the Oklahoma Tort Claims Act. Staff also proposes to add a new Section (d) that allows the Oil and Gas Inspector to seek termination of electric service to uninsured wells or to allow the City of Norman to seek any legal remedy available to cease operation of the well until the insurance coverage is reinstated.

Section 13-1503: Definitions

Three new terms and their definitions have been added to this section. They are: "plugged and abandoned", "producing well", and "surface facilities". A well is "plugged and abandoned" when it has been plugged according to the Oklahoma Corporation Commission rules and regulations. A "producing well" is defined as: "Any well, hole or bore, of any depth which is not plugged for the purpose of producing oil or gas or disposing of saltwater or any other by-product thereof." "Surface facilities" are defined as: "Tank batteries, booster pumps or any other surface equipment used in the production of oil or gas or disposal of saltwater or any other by-product thereof, except the pumping units."

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Section 13-1504: Casing

Section 13-1504 is proposed to be amended to require surface casing to be pumped to a depth of 1,200 feet below the surface or 200 below the base of treatable water whichever is deeper. This amendment complies with a previous Order of the Oklahoma Corporation Commission to which the City of Norman was a party. In addition, this section is proposed to be amended to prohibit drilling until the cement bond log has been run, read, and approved. The bond log is run to tell the operator and the oil and gas inspector how dense and bonded the cement is. It is important that the cement is dense and well bonded to support the casing and prevent seepage. The remaining changes to Section 13-1504 clean up the language.

Sections 13-1505: Closed Loop System, 13-1506: Earthen Ditches and/or Dikes, 13-1507: Safety Standards and Practices

The existing language in Section 13-1505 has been deleted. Staff proposes that earthen circulation pits should no longer be acceptable within the City of Norman. Instead, Staff proposes requiring a closed loop system exclusively of metal construction. Section 13-1506 has been amended to require ditches to be dug around the drilling rig and sump pumps to be installed to contain and remove all fluids from the drilling operation. These fluids shall be pumped into steel containers and removed from the site. Section 13-1507 has also been deleted because Staff proposes that earthen reserve pits should no longer be acceptable within the City of Norman.

In Section 13-1507, Sections (a) and (b) is existing ordinance language that has been relocated from Section 13-1511 because it fits more appropriately in this new Section 13-1507. In addition, as requested by the Oversight Committee, a new Section (c) has been added to the new Section 13-1507 to address storage of hazardous materials. It requires that all chemicals and/or hazardous materials be stored in such a manner to prevent, contain, and facilitate rapid remediation and cleanup of any accidental spill, leak, or discharge of a hazardous material. Also, operators are required to keep all safety sheets on site and to take appropriate pollution prevention actions that may include: storing materials in original containers, raised from the ground, and protected from stormwater and weather elements.

Section 13-1508: Premises Maintained

Section 13-1508 contains the proposed amendments relating to fencing. On May 14, 2014, the Oversight Committee discussed ideas presented by Staff to incorporate regulatory provisions utilized by other cities regarding oil and gas facility fencing and oil well security. The ideas included:

1. Require 6-foot tall chain-link fencing with three (3) strands of barbed wire at the top around the well and the tank batteries which are within 600 feet of any structure unless waived by the land owner;
2. Landscaping could be required to screen the well sites, but only when they are visible from a public street;

3. Identify the well operator as the party responsible for maintaining the fencing;
4. Fencing shall not be required on drill sites during initial drilling, completion or reworking operations as long as twenty-four (24) on-site supervision is provided. However, a secured entrance gate on the access road containing a lock (accessible to appropriate City Staff) shall be required and all gates are to be kept locked when the Operator or his employees are not on the premises; and
5. Amend the Code so that all existing wells would need to comply with the current fencing requirements with one year from the date of the approval of the amendment.

Staff then drafted ordinance amendment language discussed by the Oversight Committee and presented the proposed ordinance amendments to Council at the August 26, 2014, Council Conference. Council discussed these proposed amendments and directed Staff to move forward reaching consensus in the following areas:

1. One (1) year requirement to comply with fencing regulations;
2. Landscaping requirements not as stringent; i.e. rural landscaping can be waived until the property is developed;
3. 600 feet with no discretionary waiver;
4. Six (6) foot fence with three (3) stranded barbed wire to be located on top of fence; and
5. Operators will be responsible to install and maintain fencing.

The following is a summary of the amendments to the fencing provision.

1. **Scope of Wells Subject to Fencing Requirements:** The proposed amendments clarify that the fencing requirements apply to all wells meeting the specific conditions even before a well is completed. The amendment requires all wells located within six hundred (600) feet of any dwelling or structure or visible from a public roadway to be fenced. The purpose of this amendment was to balance the public safety concerns of a well site possibly being an attractive nuisance with the reality that many of the City's wells are located in rural areas and are not visible to the public. The amendments clarify that a well site and tank battery may be fenced separately as long as each separate fence complies with the fencing requirements. Often tank batteries are located far from the actual well and adding this provision allows the well operator and landowner to minimize the amount of surface land lost due to the fencing requirements. Fencing the well and the tank batteries separately in certain circumstances may result in significantly less total surface area being contained than requiring one perimeter fence surrounding the total surface area. (Typically, the fence is placed between three (3) to four (4) feet away from the actual equipment.)

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2. **Removal of Waiver:** The amendments remove the Oil and Gas Inspector's ability to waive or modify the fencing requirements.
3. **Type of Fencing:** The amendments require that all fencing be chain-link with at least three (3) strands of barbed wire secured across the top of the fence.
4. **Locking Requirements:** The amendments retain the requirements that all fences and gates be kept locked when the well operator or his employees or agents are not present and that the Oil and Gas Inspector shall be provided duplicate keys to such locks. The amendments clarify that fencing will not be required during initial drilling, completion, or reworking operations as long as twenty-four (24) hour onsite supervision is provided but adds a requirement that a secured entrance gate on the access road shall be provided.
5. **Establishing a Date for Full Compliance:** Historically, well sites in Norman have only been required to comply with the fencing requirements in place at the time those wells were completed. As a result, various wells were subject to different requirements. These amendments require all wells that fall within the scope of the ordinance to be in full compliance within one year of the effective date of the Ordinance amendment.
6. **Development Moving to a Well:** The current platting regulations require a developer to specify in the preliminary plat who is responsible for constructing fencing around well sites when a development moves out to a well. Traditionally, this matter has been left to the developer and the well operator to negotiate an agreeable solution. However, as discussed in Council Conference, these amendments specify that the well operator is solely responsible for installing and maintaining any fencing required by this section. These amendments add notice requirements from the developer to the well operator to ensure that the well operator has notice of the upcoming development and its fencing obligations under the ordinance. Some wells located further than six hundred (600) feet from a dwelling or business structure and not visible from a public roadway would not be subject to these fencing requirements unless and until development moving to that location placed the well site within those parameters. The amendments require the developer to provide two notices to the well operator of the impending development, first at the preliminary platting stage and second once a building permit is issued for any dwelling or business structure that would place the well site within the scope of the ordinance. Requiring this first notice at the preliminary plat stage provides the well operator an early opportunity to prepare for the fencing requirements that will be activated once the development occurs. The second notice is required when a building permit has been issued to ensure that a well operator's fencing obligations are satisfied before the health and safety concerns arise (ie: when the dwelling or building is occupied) without

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unnecessarily imposing the fencing requirements on a well operator before the safety concern comes to fruition. The amendments provide that a well operator's permit may be subject to revocation if the fencing requirements are not satisfied within the specified time (sixty (60) days after written notification of the issuance of a building permit). The amendments also provide that a certificate of occupancy shall not be issued until all the fencing requirements have been satisfied.

7. **Section 19-303 - Preliminary plat: Contents** These amendments modify the language requiring the developer to identify on the preliminary plat who will be responsible for the fencing around oil well sites since the fencing amendments require the well operator to be responsible for the fencing. These amendments also outline the notice procedure described above.
8. The Council at Conference discussed the previously requested landscaping requirements and acknowledged that it could be difficult and impractical to comply in rural areas with potential irrigation issues. Accordingly, the landscaping provisions were removed.

At the October 23, 2014 meeting with the operators, the operators expressed a number of concerns regarding these proposed amendments. Of all of the items discussed at the meeting, the operators seemed to feel the most strongly about the proposed changes to the fencing requirements. Because of the small amount of oil produced by many of the older wells within the city limits, several operators expressed that they will most likely plug and abandon some of their wells rather than fence them because of the cost to do so. The operators requested that City Council reconsider the proposed language making the fencing requirement retroactive. The operators stressed that they want to keep their older wells open and many mineral owners depend on the royalty payments.

They expressed that it is the standard practice in Oklahoma for developers, who are bringing a new development near an existing oil well, to bear the cost of fencing and the relocation of any lines. Specifically, Mr. Arrowood, the operator of Trinity Resources, Inc., expressed that Park 7, the new apartment complex addition near the intersection of 12th Avenue and Cedar Lane paid to erect the fence and relocate the lines of one his wells that is within that development. In fact, the developer fenced around the entirety of the well site, all the way to the deadmen anchors, instead of simply fencing the well head and tank batteries. They asked that City Council reconsider moving forward with placing the burden on the operators, and their mineral owners, to fence existing well sites that have operated without incident for many years.

The operators also requested some clarification regarding the extent of the well site to be fenced. They would prefer for the fences to be constructed around the well head and the tank batteries rather than a fence around the entire well site extending all the way to deadmen anchors. One of the reasons for this request is that they believe surface owners may not want such a large amount of their property fenced off and access denied. In addition, they advised that existing lease agreements to operate oil and gas wells with surface owners may be contrary to the proposed

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fencing requirements. Surface owners often specify in lease agreements that they do not want the well sites to be fenced. The operators asked for the ordinance to include an option to obtain a waiver from the property owner in lieu of constructing a new fence. They also asked that Council consider amending the proposed ordinance to give the Oil and Gas Inspector some discretion to modify the fencing requirements in appropriate situations.

On November 5, 2014, the City Attorney's Office received a Memorandum of Law from Gregory Mahaffey of Mahaffey & Gore, P.C. His firm has been retained by several of the local oil and gas operators to represent their interests to the Norman City Council as discussions on possible ordinance amendments move forward. Mr. Mahaffey expresses a number of concerns with the proposed amendments – primarily with the proposed fencing amendments. His Memorandum of Law is attached for the Committee's consideration.

Along with this feedback from the operators, Staff has a couple of suggestions for amendments to the proposed fencing ordinance for Council to consider. First, Staff suggests requiring the developer to fence around the well site – all the way to the deadmen anchors – and requiring the operator to fence the tank batteries and well head inside of the larger fenced area when development comes to a well site. If this amendment were adopted, the developer and the operator would share in the responsibility to fence and the well would have a double layer of fencing providing additional safety to new residents in the area. Also, Staff suggests requiring the fences around the tank batteries and well head to be a heavier gauge of chainlink and to be attached to steel posts set in concrete. Staff recommends allowing a twelve foot panel of these fences to be removable so operators can bring equipment into to work on the sites.

Section 13-1509: Drilling Location

Staff proposed removing the requirement in (a)(4) regarding denial of permits unless the applicant is in compliance with the Department of Housing and Urban Development (HUD) Guidebook. This book applies specifically to locating HUD-funded facilities near hazardous facilities. For that reason, it seems more appropriate for HUD to check for compliance on these issues. In addition, it has been Staff's experience that it is unlikely that a new oil well will be located near any type of HUD-funded facility particularly with a ten acre tract requirement that is in the City's current ordinance.

Staff also proposes amending the language in (b) to require all wells, not just wells run on combustion engines, to be located six hundred feet or more from any dwelling or business structure. A representative from Finley Resources was at the most recent meeting with the operators. He requested that Council consider amending the ordinance to allow additional wells to be drilled on the same well pad without having to first obtain a waiver from an adjacent property owner within six hundred feet of the well site if a waiver had already been obtained for the first well or if the first well was drilled prior to a house or business being constructed within six hundred feet of the well site. Also, the representative from Finley Resources, along with several other operators, requested that Council consider removing the prohibition on drilling within Certificate of Survey Subdivisions as stated in (a)(3). Certificate of Survey Subdivisions contain tracts of ten acres or greater and are located within the more rural areas of the City of

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Norman. Operators believe that prohibiting drilling in these subdivisions unduly limits oil and gas exploration in areas of Norman that are most appropriate to do so.

Staff proposes to delete Section (d)(3) because Staff proposes to prohibit earthen circulation pits completely, therefore, this section is no longer necessary.

Sections 13-1510: Water Testing and 13-1511: Reserved

Staff proposes deleting Section 13-1510 because all reserve pits and mud circulation pits, not just those located in the Lake Thunderbird drainage basin, are proposed to be required to be exclusively of metal construction. Also, disposal of all chemicals and substances, not simply those used at well sites within the Lake Thunderbird drainage basin, are required to be transported to an off-site disposal facility.

Staff proposes to replace the language in Section 13-1510 with language regulating water testing. At the Oversight Committee's direction, Staff has drafted amendments that require testing of all water wells within a quarter mile of any newly drilled oil and gas well prior to drilling, at the time the well goes into production, and annually thereafter. The wells will be tested for chloride, sulphates, and dissolved solids. After discussing this proposed amendment with the oil and gas operators, they expressed concern with entering onto private property to test private water wells. For that reason, Staff added a provision to the ordinance waiving the testing of any water well if the water well owner denies access to the well or waives testing. The operators were also concerned that amending the ordinance in this way represents a first step toward additional water testing around existing well sites and the expense to do so.

Staff proposes deleting Section 13-1511 because these safety measures are now contained, and expanded upon, in Section 13-1507. Section 13-1511 is now designated as a Reserved section.

Section 13-1512: Storage Tanks

Section 13-1512 regulates storage tanks. At the request of the Committee, Staff has drafted amendments that require new well sites to install steel or concrete containment systems, rather than earthen embankments, and requires the inside of the containment to be lined with a minimum thirty mill seamless liner. Sections (b) and (c) contain minor language clarifications. Section (e) contains suggested clarification language and adds a requirement for pollution control containers (i.e. drip pans) at the loading point. Section (f) is also proposed to be deleted because earthen embankments are proposed to no longer be allowed.

Sections 13-1513: Tubing and 13-1514: Disposal/Injection Wells

The proposed changes in Section 13-1513 contain small tweaks to clarify the language. There are no substantive changes. Section 13-1514, other than one language tweak, contains one change proposed by Staff. If adopted, it would require operators to install tracer wire into any

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non-steel lines and to post signs indicating the location of lines at all property line and public and private street crossings.

Sections 13-1516: Approaches, Section 13-1517: Determinations of Routes to Well Sites, 13-1518: Signs

Staff proposes to amend Section 13-1516 to require that a gravel driveway approach be installed during the drilling operations. Staff does not feel it is necessary to be provided with an estimate of the cost to complete such an approach, rather it is more beneficial for the ordinance to more clearly require its construction. Section (b) is proposed to be amended to more clearly identify the operator as the responsible party for corrections to improperly installed culvert, ditches, or driveways.

Staff proposes to amend Section 13-1517 to shorten the times frames for notifications. Staff believes these new shortened time frames will make the permitting process more expeditious without causing any concern on the part of the operators. The operators did not express any concerns on this issue. The other proposed tweaks to this section are to more accurately represent the types of roads used by operators and the written documentation issued by the Oil and Gas Inspector.

Section 13-1518 has been amended to reflect current Oklahoma Corporation regulations regarding signage. Staff recommends amending the ordinance to be consistent with their requirements regarding signs.

Section 13-1519: Plugging of Wells

Staff proposes adding a new Section (d) requiring a minimum of two hundred (200) feet of cement to be set at the end of the surface casing. Of that two hundred (200) foot minimum of cement, at least one hundred (100) feet shall extend above the bottom of the surface casing and at least one hundred (100) feet shall extend below the bottom of surface casing. In addition, at least fifty (50) feet of cement shall be pumped extending from five feet below the restored ground level elevation down into the well bore. This is an additional safety measure that Staff recommends be done when wells are plugged.

Section 13-1522: Oil and Gas Inspector

Staff proposes adding language to Section 13-1521 giving the Oil and Gas Inspector the clear authority to issue an order ceasing operation of a well or well site that is in violation of any of the provisions of the oil and gas ordinance until such time as compliance is achieved. The operators were comfortable with this addition to the ordinance language because they stated that they want to run clean, safe well sites and have no issue with being shut down if they fail to do so.

RECOMMENDATION:

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The above information, along with the attached draft Ordinance, is provided for the Committee's information and discussion at the November 13, 2014 City Council Oversight Committee meeting. Staff will be available for questions and comments at that time.

Attachments: Draft Ordinance
Draft Amendments to Chapter 19
Chart with Comments from Oil Well Operators
Memorandum of Law from Mahaffey & Gore, P.C.
Insurance Requirements Comparison Chart

**Proposed Amendments to City of Norman Ordinance
Regulating Oil and Gas Drilling and Operations**

Sec. 13-1501. Permits required.

- (a) No person shall drill, reenter, maintain or operate an oil, gas or disposal well, or otherwise mine or produce other minerals, without having previously obtained an appropriate permit from the Oil and Gas Inspector as provided in this section.
- (1) An oil/gas well drilling permit fee of five thousand dollars (\$5,000.00) shall be required. The term of said permit shall be for a period of one (1) year from the date of issuance;
 - (2) An annual inspection fee of four hundred fifty dollars (\$450.00) shall be required per year.
 - (3) A re-entry permit fee of ~~one thousand dollars (\$1,000.00)~~ three thousand dollars (\$3,000.00) shall be required. The term of said permit shall be for a period of one (1) year from the date of issuance.
 - (4) ~~To~~ A convert a producing well to an injection well permit requires a permit fee of one thousand dollars (\$1,000.00) shall be required. The term of said permit shall be a period of one (1) year from the date of issuance;
 - (5) A plugging permit fee of two hundred fifty dollars (\$250.00) shall be required.
- (b) ~~In addition to the information required in Article I of this chapter,~~ All applicants desiring a permit to drill, reenter, maintain or operate an oil, gas or disposal well shall submit:
- (1) A description of the location of the well, specifying and identifying the well location within a particular ten (10) acre tract within a specific quarter, section, township and range, including thereon the distance to all existing dwelling houses, buildings or other structures designed for the occupancy of human beings or animals within six hundred sixty (660) feet of any such well, and the location of all known existing oil, gas or fresh water wells within said ten (10) acre tract;
 - (2) A list of all equipment that will be utilized in the drilling, operation or maintenance of the particular well;
 - (3) The mud program to be utilized on that particular well;

- (4) A copy of the approved drilling permit from the Corporation Commission and a copy of the staking plat;
- (5) The size, depth and quality of surface and production casing;
- (6) A statement of the provisions for water for the drilling ~~rig~~ and completion operations;
- (7) At the time of permitting, a A written plan for disposal of deleterious substances produced during the drilling operations shall be submitted, and any deleterious substances produced as a result of production from the well. This plan shall include the method of transportation for the deleterious substances and the name and location of the permitted disposal site, including a copy of the permit for the disposal site and a contract with the owner of the permitted site for the this disposal of said deleterious substances. Before commencing drilling operations, this plan must be approved by the City of Norman to be compliance with Floodplain and Water Quality Protection zone (WQPZ) ordinances and have received approval from the Oklahoma Corporation Commission, or in the alternative, provide proof of ownership of the permitted disposal site. The permittee shall provide monthly reports to the City of the amount of sale water and other deleterious substances produced, along with receipts for disposal of same;
- (8) The names of the surface and surface lease owners;
- (9) A drilling prognosis, to specify in detail the amount, weight and size of conductor pipe and surface pipe and the procedures to be used for cementing such. Plugging procedures to be used in the event production is not established shall also be specified;
- (10) A statement of verification by the applicant that all submitted information is accurate.
- (11) Copy of receipts reflecting notice, by certified mail, to all property owners within three hundred (300) feet of the exterior of the entire well site (including all accessory equipment), notifying them of applicant's intention to drill a well.
- (12) A signed surface owner's statement or letter or a court proceeding allowing drilling on the property.
- (13) Maps and drawings showing the means to be used for diverting surface water from the drilling/production site.
- (14) Statement acknowledging the operator's obligation to have a Spill

Prevention Control and Countermeasure Plan, as required by the Environmental Protection Agency, and acknowledging a willingness to produce such a plan upon request of the Oil and Gas Inspector.

(c) An application for the permit to drill or reenter a well for enhanced recovery or substance disposal shall be in the same form as required for a permit to drill an original well and shall contain the following additional information:

(1) A block map of the well site, showing all equipment to be used at the site, location of pipelines, access road, and distances from the well to any and all fences, public roadways and buildings within a radius of three hundred (300) feet;

(2) A block map of the project, showing the location of:

a. All water supply wells within a one-quarter mile radius of each injection or disposal well;

b. All public water supply wells, disposal wells, injection wells, producing wells, and plugged and abandoned wells within the project area and those sections immediately adjacent;

~~c. All conduits; and~~

~~d. Tank battery, pumping station and appurtenant equipment;~~

~~(3) All wells within the project area and those sections immediately adjacent shall be indicated by status (e.g., plugged and abandoned, injection, salt water, oil, etc.) and show the following additional information:~~

~~a. Footage (surface casing);~~

~~b. Derrick floor and ground level elevation;~~

~~c. Drilled total depth;~~

~~d. Packer total depth;~~

~~e. Size, depth and A.P.I. grade of surface and production casing, including zones from which casing has been removed;~~

~~f. Location of all plugs, packers, cement plugs, tubing anchors, etc., with the well bore;~~

~~g. Depth and nature of all cement squeeze jobs;~~

- ~~h. Formation name and depth of all open perforations in a producing open hole;~~
 - ~~i. Volume and type of cement used on surface and production strings; and~~
 - ~~j. Top of cement (measured or calculated);~~
 - ~~k. One (1) copy of all electric, mechanical, sample and driller's logs. These logs shall be held in confidential files for a period not to exceed one (1) year from the date the last submitted formation evaluation type wire line log was run. An extension of six (6) months may be granted administratively by the Oil and Gas Inspector, upon approval of a written request from the current operator of the well;~~
 - ~~l. Operation name for each well;~~
 - ~~m. One (1) copy of all cement bond logs and production logs;~~
 - ~~n. One (1) copy of all work performed on the well;~~
 - ~~(3)(8) Copies of all information supplied to the Corporation Commission, and said Commission's approval of the project;~~
 - ~~(4)(9) All operators, contractors, drillers, service companies, pipe-pulling and salvaging contractors, or other persons, shall be knowledgeable of and prepared to implement, if necessary, emergency procedures as detailed in the Oklahoma Corporation Commission's "Guidelines for Petroleum Emergency Field Situations in the State of Oklahoma."~~
- (d) An annual inspection fee of four hundred fifty dollars (\$450.00) shall be paid for each well operated or maintained under a permit issued by the City. Such fee is due on or before June 30 of each calendar year. Failure to pay the required permit fee by June 30 of each calendar year will result in a late charge of four hundred fifty dollars (\$450.00) per well. At the time the annual inspection fee is paid, the inspector may request to view the annual inspection sheet required by the Environmental Protection Agency in conjunction with the Spill Prevention Control and Countermeasure Plan.

Sec. 13-1502. Blanket bond, blanket irrevocable letter of credit, or cash required.

- (a) Prior to the issuance of any permits, any person who drills or ~~operates operators~~ any well for the exploration, development or production of oil or gas, or as an injection or disposal well, with this City shall furnish on forms approved by the City's Legal Department and maintain at all times a blanket bond, ~~or~~ blanket

irrevocable letter of credit or provide a cash payment in the principal sum of at least twenty-five thousand dollars (\$25,000.00). Said bond or letter ~~of~~ credit must be executed by a reliable insurance company or bank authorized to do business in the state, as surety or creditor, and with the applicant/permittee as principal or debtor, running to the City for the benefit of the City and all persons concerned, conditioned that the applicant/permittee shall comply with the terms and conditions of this chapter in the drilling and operation of oil wells drilled or operated within the City. Said bond, ~~or~~ letter of credit, or cash payment deposited must become effective on or before the date the same is filed with the City and remain in full force and effect for at least twelve (12) months subsequent to the expiration of the permit term and, in addition, ~~the bond, or~~ letter of credit, or cash payment must be conditioned that the applicant/permittee must promptly pay all fines, penalties and other assessments, ~~imposed~~ upon the applicant/permittee by reason of his breach of any of the terms, provisions or conditions of this chapter, and that the applicant/permittee must promptly restore the streets, sidewalks and other public property of the City which may be disturbed or damaged during the applicant/permittee's operations to their former conditions; that the applicant/permittee must promptly clear all premises of all litter, trash, waste and other substances and must, after plugging and abandoning abandonment, grade, level and restore said property to the same surface condition, as far as possible, as existed prior to commencing operations on a condition agreed to by the property owner in writing; further that the applicant/permittee shall indemnify and hold harmless the City from any and all liability attributable to granting the permit; that the applicant/permittee shall promptly pay all sums with respect to deductibles on covered losses under insurance policies required by this chapter; and that the applicant/permittee shall comply with all of the terms of this chapter concerning the plugging and abandoning abandonment and/or plugging of all such wells. Each bond, ~~or~~ letter of credit, or cash payment submitted shall cover all wells drilled or operated by said person within the City.

- (b) For good cause, the Oil and Gas Inspector, after consulting with and receiving approval from the City's Legal Department, may require the filing of a blanket bond, ~~or~~ letter of credit, or cash payment in an amount higher than that twenty-five thousand dollars (\$25,000.00), but not to exceed one hundred thousand dollars (\$100,000.00) by the permittee. "Good cause" shall include, but shall not be limited to, a showing that the operator or permittee has previously violated any of the provisions of Chapter 13, Article 15 of this Code.
- (c) The blanket bond, ~~or~~ letter of credit, or cash payment required by this section shall be submitted and maintained in full force and effect at all times by all persons drilling, completing, operating, maintaining and/or producing any well located within the limits of the City.
- (d) Upon noncompliance with the above-listed conditions, the cash amount or the blanket bond or blanket irrevocable letter of credit shall be forfeited and shall provide for the plugging of the well and/or restoration of the land's surface.

Sec. 13-1502.1. Insurance requirements.

- (a) Prior to the issuance of any permit, the applicant shall deposit a copy of the following insurance policies issued by a corporate insurer licensed to do business in the State of Oklahoma:
- (1) A policy or policies covering seepage and pollution in an amount not less than one million dollars (\$1,000,000.00) for each occurrence, ~~except stripper wells, which may be reduced to five hundred thousand dollars (\$500,000.00) coverage;~~ and such policy shall contain coverage for contamination or pollution of surface or subterranean streams, watercourses, lakes or public or private water supplies.
 - (2) A policy or policies of standard comprehensive public liability insurance, including contractual liability covering:
 - a. Bodily injury: ~~One hundred thousand twenty-five dollars (\$100,000.00)~~ \$125,000.00 per person, three hundred thousand dollars (\$300,000.00) per accident or occurrence; and
 - b. Property damage: ~~Two hundred thousand dollars (\$200,000.00)~~ per accident or occurrence.
- (b) All such policies shall be endorsed to include the City as an additional insured.
- (c) All policies shall be endorsed to read:

"THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT 30 DAY ADVANCED WRITTEN NOTICE TO THE OWNER AND TO THE CITY OF NORMAN EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE TEN (10) DAYS ADVANCED WRITTEN NOTICE IS REQUIRED".

~~Thirty (30) days' notice~~ Notice of cancellation shall be provided to the City of Norman, Office of City Attorney/~~Code Enforcement~~ Oil and Gas Inspector, P.O. Box 370, Norman, Oklahoma 73070.

- (d) If said insurance policy or policies are cancelled or allowed to expire, the Oil and Gas Inspector may seek termination of electric service to all uninsured wells. In addition, or in the alternative, the City of Norman may seek injunctive relief or any other legal remedy available to cease operations of the well(s) until the insurance coverage is reinstated.

Sec. 13-1503. Definitions.

The following words and phrases, when used in this article, shall, for the purposes of this article, have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

Abandoned well:

- (1) Each well in which no production casing has been run, and for which drilling or testing operations have ceased for thirty (30) consecutive days; or
- (2) Any other well for which there is no current city permit.

Circulating mud pit: The working pit from which drilling muds are continuously recirculated during the drilling process into and from the drilling hole for the purpose of flushing therefrom the drill bit cuttings and as a lubricant to reduce torque, drag, heat, friction and differential sticking during the drilling process.

Deleterious substance: Any chemical, salt water, oil field brine, waste oil, waste emulsified oil, basic sediment, mud or injurious substance produced or used in the drilling, development, producing, transportation, refining and processing of oil, gas or condensate.

Disposal or injection well: Any well drilled or actually used for injection of salt water or other substances into the earth different than the point of extraction or production thereof from the earth.

Enhanced recovery: An operation by which fluid or energy is introduced into a source of supply for the purpose of facilitating recovery therefrom.

Lake Thunderbird drainage basin: That land encompassed by the following legal description: Secs. 18, 19, 30, 31 and 32, T10N R1E of I.M.; Secs. 25, 26, 27, 32, 33, 34, 35 and 36, T10N R1W of I.M.; S/2 of Sec. 34 and that part of Sec. 35 annexed by Ordinances 1323, 1324 and 1361, less the portion deannexed by Ordinance No. 1428, T10N R3W of I.M.; Secs. 3, 4, 5, 6, 7, 8, 9, the W/2 of Sec. 10, the W/2 of Sec. 16, Secs. 17, 18, 19, 20, the W/2 of Sec. 21, the NW/4 of Sec. 28, Secs. 29, 30, 31, and the W/2 of Sec. 32, T9N R1E of I.M.; Secs. 1 through 36, T9N R1W of I.M.; Secs. 1 through 18, the E/2 of the NW/4 of Sec. 19, Secs. 20 through 28, the NE/4 of Sec. 29, the E/2 of Sec. 33, and Secs. 34, 35 and 36, T9N R2W of I.M.; Secs. 1, 2, 3, the E/2 of Sec. 4, Secs. 10, 11, 12, 13, and the E/2 and NW/4 of Sec. 14, the NE/4 of Sec. 15, and the NE/4 of Sec. 24, T9N R3W of I.M.; the W/2 and NE/4 of Sec. 6 and the W/2 of Sec. 7, T8N R1E of I.M.; Secs. 1 through 23, and the W/2 of Sec. 24, T8N R1W of I.M.; Secs. 1, 2, 3, the SE/4 of Sec. 9, Secs. 10, 11, 12, 13, 14, the E/2 and the NW/4 of Sec. 15, and the NE/4 of Sec. 16, T8N R2W of I.M.; all in Cleveland County, Oklahoma.

Mud: The drilling fluid used and recirculated through the drilling hole as a lubricant to reduce torque, drag, heat, friction and differential sticking and to flush drill bit cuttings from the hole during the drilling process.

Mud program: The planning usage of drilling fluid lubricants, specifying with particularity the type, name and physical and chemical composition and characteristics of all

ingredients thereof, together with such laboratory and other technical data as may be necessary or required by the Public Works Department to evaluate the same as polluting or deleterious, as enumerated in the current EPA Priority Pollutant Series listing.

Oil or gas well: Any well drilled, operated or maintained for the production of oil, gas, casinghead gas, or any of them or their by-products or derivatives.

Plugged and abandoned: Any well which has been plugged per Oklahoma Corporation Commission rules and regulations.

Pollution: The contamination or other alteration of the physical, chemical or biological properties of any natural waters of the City, or such discharge of any liquid, gaseous or solid substance into any water of the City as will, or is likely to, create a nuisance or render such waters harmful or detrimental or injurious: to public health, safety or welfare; to domestic, commercial, industrial, agricultural, recreational or other beneficial uses; or the livestock, animals or aquatic life.

Producing Well: Any well, hole or bore, of any depth which is not plugged for the purpose of producing oil or gas or disposing of saltwater or any other by-product thereof.

Reserve pit: Any excavation, pit or receptacle designed or actually used to receive, store or hold rocks, drill bit cuttings, shale, sand, fresh water or drilling mud that contains no salt water, oil, oil derivatives, caustics, acids or other deleterious substances harmful to soil or vegetation, or injurious to animal or human life.

Salt water: As used in this ordinance shall mean any water containing more than 500 mg/l chlorides.

Slush pit: An excavation, pit or receptacle, designed or actually used to receive, store or hold waste oil, oil derivatives, sand, salt water or other waste products or deleterious substances produced or used in the drilling, swabbing, cleaning or reworking of any oil, gas or disposal well.

Stripper wells: Any well which produces ten (10) barrels of oil or less per day. To qualify as a stripper well, the operator of the well will have to provide the City Oil and Gas Inspector with copies of the Corporation Commission Production Forms for the previous year, then every year before July 1, thereafter, to qualify for the next fiscal year.

Surface Facilities: Tank batteries, booster pumps or any other surface equipment used in the production of oil or gas or disposal of saltwater or any other by-product thereof, except the pumping units.

Treatable water: Surface and subsurface water in its natural state which may or may not require treatment to be useful for human consumption and contains less than ten thousand (10,000) mg/l total dissolved solids and/or five thousand (5,000) mg/l chlorides.

Sec. 13-1504. Casing.

- (a) The provisions of this section shall apply to all oil, gas, injection and disposal wells.
- (b) Suitable and sufficient surface casing or a stage collar shall be installed to a depth of at least ~~one thousand (1,000)~~ twelve hundred (1,200) feet below the surface or a depth of two hundred (200) feet below treatable water strata encountered in the well, whichever is deeper, and the annular space behind the casing shall be filled with cement from the base of the surface casing, or from the stage collar, to the surface of the ground, by either pump and plug method or by the displacement method. No further drilling shall be accomplished until ~~a~~ the cement bond log has been run, read and approved set for at least eight (8) hours. No braden head cement job shall be performed between the surface casing and any other casing string except by special order of the Corporation Commission.
- (1) Production casing of a size not less than four and one-half (4 ½) inches outside diameter, in good condition, shall be set no higher than the top of the producing formation and cemented with a sufficient amount of cement to obtain a minimum of five hundred (500) feet of annular fill ~~up~~ above the casing producing zone.
- (c) ~~The~~ Each casing string and blow out preventer shall be tested before drilling the cement plug, at a minimum pressure of one thousand (1,000) pounds per square inch held for one (1) hour. ~~Whenever the pressure drops five (5) percent within the hour, the casing will be deemed inadequate and shall be repaired and retested until the requirements hereof are met.~~
- (d) Permittee shall fill out a form provided by the Oil and Gas Inspector showing the results of the casing pressure test. The test results shall be filed with the Oil and Gas Inspector upon completion of such test. The Oil and Gas Inspector shall be notified in advance of the casing pressure test to enable him to be present if he so chooses.
- (e) Rupture in surface casing. In the event a rupture, break or opening occurs in the surface ~~production~~ casing, the permittee or the operator or drilling contractor shall take immediate action to repair it, and shall report the incident to the Oil and Gas Inspector promptly.

Sec. 13-1505. ~~Earthen circulation pits.~~ Closed Loop System.

- (a) ~~Except in those areas of the Lake Thunderbird basin or Garber Wellington Aquifer recharge area, earthen circulation pits may be constructed or used in connection with the drilling, swabbing, cleaning out or reworking of oil or gas wells. All earthen circulation pits will be vinyl lined, and the contents of such pits will be hauled to a disposal facility. All circulating mud pits utilized shall be exclusively of metal construction.~~

- (b) ~~Such circulation pits shall be leveled and the surface of the ground restored as nearly as possible to its original condition within thirty (30) days after completion of said drilling, swabbing, cleanout or reworking operations.~~

Sec. 13-1506. Earthen retaining wall ditches and/or dikes.

- (a) ~~The applicant shall submit maps and drawings showing the means to be used for diverting surface water from the drilling/production site.~~
- (b) ~~Each owner and operator is required to construct and maintain dikes or berms surrounding the facility adequate to prevent downward or lateral seepage of deleterious materials. Before drilling operations commence, ditches shall be constructed around the drilling rig, sump pumps shall be installed, and all fluid from the sumps shall be pumped into steel containers for removal. Size and location of ditches and dikes and berms [are] that may be required shall to be determined by the Oil and Gas Inspector.~~

Sec. 13-1507. Earthen reserve pits. Safety standards and Practices.

- (a) ~~Steel mud or circulating pits shall be used. Such pits and contents shall be removed from the premises and the drilling site within fifteen (15) days after completion of the well. Earthen pits will be allowed only as temporary emergency pits and/or as catch basins. Catch basin pits shall be used only for the purpose of catching any deleterious substance runoff and shall be no greater than three hundred twenty (320) cubic feet in volume. Such catch basins will be equipped with a liquid level activated pump designed to keep fluids pumped out of such catch basin pits. All such earthen pits must be lined and approved in writing by the Oil and Gas Inspector. Emergency pits shall be emptied as soon as the emergency is over and all such pits shall be emptied and then leveled within fifteen (15) days after completion of the well. Approved equipment, standard devices and all ordinary methods commonly known and used in the oil and gas drilling and producing industry for the safety and protection of property from damage due to drilling and operating activities shall be used at all locations. Failure on the part of any owner, driller or operator to utilize such equipment, devices or methods shall be the basis for injunction thereof by the City or any person affected thereby, in addition to any penalties provided in this chapter.~~
- (b) ~~All waste oil, salt water, liquid with oil content, gasoline or other oil derivatives or by products, sand, sludge or other waste produced in connection with the drilling, testing, cleaning, swabbing, reworking or operating of any oil, gas or disposal well shall be captured and retained in steel tanks or vessels and transported from the premises to a disposal facility. All drilling rigs shall be equipped with a master gate or its equivalent, adequate blowout preventers, flow lines and valves commensurate with the working pressures involved.~~

- (c) ~~No person shall permit such substances to escape from the premises owned, leased or controlled by the persons conducting such operations by seepage, overflow or otherwise, nor flow across the surface of the ground or upon any public way, into any storm or sanitary sewer, drainage ditch, upon any gutter or paving or into any Galloway, stream or tributary. All chemicals and/or hazardous materials shall be stored in such a manner to prevent, contain, and facilitate rapid remediation and cleanup of any accidental spill, leak, or discharge of a hazardous material. The operator shall have all material safety data sheets for all hazardous materials on site. All applicable federal and state regulatory requirements for the proper labeling of containers shall be followed. Appropriate pollution prevention actions may be required and include, but not be limited to: chemicals and materials in original containers, raised from the ground, and protected from stormwater and weather elements.~~

Sec. 13-1508. Premises maintained.

- (a) The premises upon which any oil, gas or disposal well is drilled, operated or maintained shall be kept free of all accumulations of rubbish, litter, unused equipment or materials, excess rotary mud, salt water, waste oil or oil by-products and other waste, insofar as the same may be reasonably done in the conduct of operations.
- (b) The permittee will promptly restore the streets, sidewalks, vegetation and other public property which may be disturbed or damaged in the permittee's operations to their former condition, and the permittee will promptly clear all premises of all litter, trash and waste, and will, after plugging and abandoning the well abandonment, grade, level and restore said property to the same surface condition as practical and as possible, as existed prior to commencing operations or a condition agreed to by the property owner in writing.
- (c) Any person who owns, operates, maintains, or completes any well as a producer that is located within six hundred (600) feet of any dwelling or business structure or is visible from a public roadway shall enclose such well, together with and its surface facilities, by a chain-link fence at least six (6) feet high and constructed of a material and in a manner so as to be impregnable to children and animals under ordinary or foreseeable circumstances; provided, that where the well site is greater than six hundred (600) feet from a dwelling or business structure, the Oil and Gas Inspector may waive the requirement of a fence or may designate the type of fence to be erected. Fences must be kept locked at all times when workers of the permittee are not present. A duplicate set of keys to such lock shall be filed with the Oil and Gas Inspector. with at least three (3) strands of barbed wire secured across the top of the fence around the well and tank batteries. Well sites and tank batteries may be fenced separately as long as each separate fence complies with the requirements of this section.

1. The well operator shall be responsible for maintaining the fencing in compliance with the requirements of this section.
 2. Fencing shall not be required on drill sites during initial drilling, completion, or reworking operations as long as twenty-four (24) hour onsite supervision is provided. However, a secured entrance gate on the access road containing a lock shall be provided. All gates shall be kept locked when the well operator or his employees or agents are not on the premises. A duplicate set of keys to all required locks shall be provided to the Oil and Gas Inspector, ~~or some~~ other appropriate means of accessibility for City Personnel.
 3. All wells and tank batteries already in existence within City limits as of [insert the effective date of this amendment] shall be in compliance with all fencing requirements of this section within one (1) year of [insert the effective date of this amendment].
 4. If a dwelling or business structure is constructed within six hundred (600) feet of an existing well not subject to fencing requirements prior to said construction, the well operator shall then be immediately subject to and come into compliance with all fencing requirements of this section within sixty (60) days of written notification by the building permit holder of issuance of a building permit for said dwelling or business structure. If the fencing requirements of this section have not been satisfied by the well operator within sixty (60) days after said notification, then the well operator's oil and gas permit for the non-compliant well may be subject to revocation. A certificate of occupancy shall not be issued for said dwelling or business structure until the fencing requirements of this section have been satisfied.
- (d) All lines that leave the premises (drilling pad), whether oil or gas, shall be buried with tracer wire and trench tape in a trench so the top of the pipe is no less than three (3) feet deep and shall be pressure tested at a minimum of one hundred fifty (150) percent of the normal working pressure held for one (1) hour. In addition line markers shall be installed and maintained at all roads, streets, fences and property lines (private or public). The Oil and Gas Inspector shall be notified forty-eight (48) hours before the trench is started and in advance of the pressure test and may supervise same.

- (e) All leaks or spills, including, but not limited to, oil and salt water, over two (2) barrels are to be reported to the Oil and Gas Inspector within twenty-four (24) hours.
- (f) The operator shall maintain the premises of the growth of grass and weeds to less than twelve (12) inches in height along the lease road and within the designated well site area.

Sec. 13-1509. ~~Production prohibitions.~~ Drilling location.

- (a) No person shall drill, mine or produce or cause to be drilled, mined or produced any gas, oil or other materials in the Norman City limits without first obtaining a permit from the Oil and Gas Inspector as provided in section 13-1501 of this chapter. However oil and gas exploration permits shall not be granted on any parcel of land:
 - (1) Containing ten (10) acres or less except upon written consent of the surface owner;
 - (2) Contained or described by any approved Final Plat;
 - (3) Contained or described by an approved certificate of survey subdivision as per section 19-607;
 - ~~(4) Unless the applicant is in compliance with environmental criteria and standards as outlined in a Department of Housing and Urban Development guidebook entitled, Siting of HUD Assisted Projects Near Hazardous Facilities (HUD-1060 CPD, second version, April, 1987), which is incorporated herein.~~
 - ~~(5)~~(4) Zoned PL, Park Land District or Planned Unit Development District (PUD) by the City Council.
- (b) ~~No steam, gasoline, natural gas, diesel or other internal combustion engine of any kind shall be operated in conjunction with the drilling and/or operation of an~~ No oil or gas well shall be drilled within six hundred (600) feet of any dwelling or business structure unless waived by the landowner.
- (c) No oil, gas or disposal well shall be drilled, operated or maintained, nor shall any operation in connection therewith be carried on or conducted within six hundred (600) feet of any church or school, unless waived by the landowner, or within three hundred (300) feet of any producing freshwater well.
- (d) In granting a permit, the Oil and Gas Inspector may impose requirements for much of the following but not limited to the following as may be reasonably necessary to protect the health, welfare and safety of persons and property:

- (1) Protective berms, including landscaping thereof;
- (2) Electric motors for pumping a completed well; and
- ~~(3) Prohibition of earthen circulation pits; and~~
- ~~(4)~~(3) Designating routes and prohibiting traffic access to the well site through residential areas.

Sec. 13-1510. ~~Reserve pits and mud circulation pits in Lake Thunderbird drainage basin.~~
Water Testing.

- (a) ~~Circulation pits located in the Lake Thunderbird drainage basin shall be exclusively metal tanks or vessels. Domestic and public water supply wells located within a radius of one-quarter (1/4) mile of a new oil or gas well shall be tested prior to drilling, at the time the well goes into production and annually thereafter annually for the presence of deleterious substances. These substances include, but may not be limited to, chloride, sulphates, and dissolved solids. Such testing is the responsibility of the permittee and, at the permittee's expense, to be conducted by a person approved by the Oil and Gas Inspector. However, testing shall not be required if the water well owner denies access to the water well or waives the testing. Such Oil and Gas Inspector shall be notified forty-eight (48) hours in advance of such testing and may be present. Test results shall be filed with the City upon completion.~~
- ~~(b) All circulating mud pits utilized within such area shall likewise be exclusively of metal construction.~~
- ~~(c) No chemicals or substances shall be placed in said reserved or circulating mud pits except as indicated in the mud program approved by the Public Works Department at the time of issuance of the drilling permit and all contents of such reserve and circulating mud pits shall, during operation and upon completion of the drilling of said well, be transported from the premises to a disposal facility.~~

Sec. 13-1511. ~~Safety devices and practices.~~ Reserved.

~~(a) Approved equipment, standard devices and all ordinary methods commonly known and used in the oil and gas drilling and producing industry for the safety and protection of property from damage due to drilling and operating activities shall be used at all locations. Failure on the part of any owner, driller or operator to utilize such equipment, devices or methods shall be the basis for injunction thereof by the City or any person affected thereby, in addition to any penalties provided in this chapter.~~

~~(b) All drilling wells shall be equipped with a master gate or its equivalent, adequate blowout preventers, flow lines and valves commensurate with the working pressures involved.~~

Sec. 13-1512. Storage tanks.

- (a) Storage tanks or other types of tanks containing flammable substances used in connection with any oil, gas or disposal well shall have ~~earthen embankments~~ steel or concrete containment walls constructed around them, of sufficient size and height to be able to adequately contain one and one-half (1 ½) times the volume of such tanks should a rupture occur at the floor of such tanks. The inside of the containment shall be lined with a minimum thirty (30) mill seamless liner.
- (b) No drain plugs, openings or siphons shall be placed in the walls of dikes, if existing, which will permit the escape of any liquids through the same.
- (c) No ~~such~~ storage tank shall be located ~~closer than~~ one hundred (100) feet to a street or highway right-of-way, nor ~~closer than~~ six hundred (600) feet to a dwelling, business structure, church or school, unless the distance requirement is waived by the affected landowner.
- (d) Storage tank areas shall be kept free of all liquids, vegetation and debris.
- (e) All service lines that ~~protrude over or out of the~~ containment dike or wall retaining berm shall be equipped with a valve that can be locked or plugged. This valve will be kept locked or ~~plugged~~ unless the tanks are being serviced. All service lines shall be equipped with a pollution control container at the loading point.
- ~~(f) Stripper storage tanks. Storage and other types of tanks containing flammable substances used in connection with any stripper well shall have earthen embankments constructed around them of sufficient size and height to be able to adequately contain two (2) times the volume of such tanks should a rupture occur at the floor of such tanks.~~

Sec. 13-1513. Tubing.

- (a) Upon completion of any flowing well, the wellhead equipment shall have, on the tubing, at least one (1) master valve plus a flow valve and a valve on the casing annulus.
- (b) All producing wells shall be equipped with flow tubing, separate from the production casing, extending from not less than fifty (50) feet from the top of the lowest producing formation.
- (c) All disposal/injection wells/~~injection~~ shall be equipped with flow tubing set on a packer and a pressure gauge in good working condition and shall be installed on the flow tubing at all times.

Sec. 13-1514. Disposal/Injection wells.

- (a) Every such disposal or injection or disposal well shall be constructed so as to seal the injection zone from the upper portion of the casing. The annulus between the injection tubing and the casing shall be filled with a noncorrosive fluid, then sealed, and a one-fourth-inch female fitting with cut-off valve shall be attached so that the pressure in the annulus may be measured by the Oil and Gas Inspector by attaching a gauge having a one-fourth-inch male fitting. A pressure shall be maintained in the annulus of not less than twenty-five (25) psi at all times to insure the integrity of the packer, tubing and casing. Any significant deviation from the established pressure shall be cause to shut down the well and may result in cancellation of the operating permit until such time as the established pressure can once again be maintained.
- (b) Injection lines shall be buried in a trench of a depth so that the top of the pipe is no less than three (3) feet, and shall be pressure tested (static) annually, at a minimum of one hundred fifty (150) percent of the pressure normally encountered at the injection pump discharge, for a period of one (1) hour. The Oil and Gas Inspector shall be notified forty-eight (48) hours in advance of such test and may supervise same. Test results shall be filed with the City upon completion. All non-steel lines shall have tracer wire installed and signs at all property lines and public and private street crossings.
- ~~(c) Domestic and public water supply wells located within a radius of one quarter (1/4) mile of any enhanced recovery or disposal well shall be tested prior to beginning injection or disposal and thereafter annually for the presence of deleterious substances. Such testing is the responsibility of the permittee and, at the permittee's expense, to be conducted by a person approved by the Oil and Gas Inspector. Such Oil and Gas Inspector shall be notified forty-eight (48) hours in advance of such testing and may be present therefor. Test results shall be filed with the City upon completion.~~

Sec. 13-1515. Lease roads.

Lease roads shall be maintained in such a manner as to safely allow for ingress and egress of City or state personnel traveling in a common passenger motor vehicle. A duplicate set of keys to the lock of the fence of a lease road shall be filed with the Oil and Gas Inspector.

Sec. 13-1516. Approaches.

- (a) During the drilling operations a gravel ~~An estimate of the cost of the materials of the work to be done on the temporary driveway approach is required shall be submitted to the Oil and Gas Inspector.~~

- (b) The maximum drive elevation across a ditch shall be at surface. Improper culvert, drainage ditch, or drive installation and/or maintenance may be corrected by the City, if deemed necessary, at the expense of the ~~lease-owner~~ operator.
- (c) Culverts shall be laid in the bottom of the ditch at the established grade and have a minimum cover (clay to rock) of six (6) inches.
- (d) The minimum width for an oil or gas lease road approach shall be fifty (50) feet at the throat, with a fifteen-foot radius on each side or as directed by the City Traffic Engineer, except that State requirements shall apply to all approaches on State highways.
- (e) If the well is a producer, the approach will be made like the surface of the abutting street within one (1) year after the date the drilling permit was issued. If the street is black top or concrete, a permanent approach permit will be required and the approach shall comply with the officially adopted specifications of the City.

Sec. 13-1517. Determination of routes to well sites.

- (a) At least ~~thirty (30)~~ fourteen (14) days prior to the actual commencement of any operations at the well site, the permittee shall notify the Oil and Gas Inspector in writing of the proposed date for commencement of such operations. Such notification shall also contain the following information:
 - (1) The permittee shall identify the maximum length, width and weight of any motor vehicles and the maximum weight of the load to be carried by any motor vehicles to be used in traveling to and from the well site.
 - (2) The permittee shall submit a complete list of the proposed routes to and from the well site for all motor vehicles to be used in travel to and from the well site. Such list shall identify any and all roads ~~highways~~ within the City ~~limits of the City~~ proposed to be used by such motor vehicles in traveling to and from the well site.
 - (3) The Oil and Gas Inspector may also require any additional information which he deems necessary to evaluate the proposed routes.
- (b) Upon receipt of the notification required under subsection (a), the Oil and Gas Inspector shall have ~~twenty five (25)~~ seven (7) days to review the information submitted by the permittee. In reviewing the proposed routes to the well site, the Oil and Gas Inspector shall consult with the Engineering Department of the City.
- (c) Following review of the information submitted by the permittee, the Oil and Gas Inspector shall ~~prepare a written order~~ provide written confirmation which either approves or disapproves the routes to and from the well site as proposed by said

permittee. If the Oil and Gas Inspector disapproves of all or part of the proposed routes, then such Inspector shall designate alternate routes which are acceptable. If the permittee disagrees with the routes as designated by the Oil and Gas Inspector, then he shall have such right of appeal as provided for by law.

- (d) During all drilling and production activities for the particular well, all motor vehicles used by any person to travel to and from the well site shall be restricted to the ~~roads~~ highway approved by the Oil and Gas Inspector as appropriate routes to and from the well site.
- (e) The Oil and Gas Inspector shall have the power and authority to amend the order designating routes to and from the well site upon his own initiative or upon application by the permittee.

Sec. 13-1518. Signs.

- (a) A sign will be posted at the entrance of the drilling site in conformance with Oklahoma Corporation Commission sign regulations with the addition of the City permit number. The sign shall be no smaller than two (2) feet by two (2) feet and shall be no larger than three (3) feet by three (3) feet. Stating the operator's name and the City permit number before spudding a well.
- ~~(b) Within thirty (30) days after the completion of any producing oil or gas well, a sign shall be posted and maintained at the location, showing the operator of the well, name of firm, number of the well, legal description of the well, and the identifying number of the permit issued by the City. The sign shall be no smaller than two (2) feet by two (2) feet and shall be no larger than three (3) feet by three (3) feet.~~

Sec. 13-1519. Plugging of wells.

- (a) The owner and operator of any oil, gas, disposal, injection or other service well, or any seismic core or other exploratory hole, whether cased or uncased, shall be jointly and severally liable and responsible for the plugging thereof in accordance with the rules and regulations of the Corporation Commission of the State of Oklahoma.
- (b) A copy of "Intention to Plug" for each well shall be filed with the Oil and Gas Inspector (Form 1001) at least forty-eight (48) hours prior to the commencement of plugging operations. The plugging operator shall notify the Oil and Gas Inspector of the exact time or times during which all plugging operations will take place, to enable the Oil and Gas Inspector to be present if he so chooses. The Oil and Gas Inspector may waive or reduce the forty-eight (48) hours' notice requirements whenever a qualified representative of the Conservation Division of the Corporation Commission of the State of Oklahoma is available to supervise the plugging operation.

- (c) A copy of the plugging record (Form 1003) will be sent to the Oil and Gas Inspector no later than thirty (30) days after a well has been plugged.
- (d) The City of Norman requires a minimum of two hundred (200) feet of cement to be set at the end of the surface casing. Of that two hundred (200) foot minimum of cement, at least one hundred (100) feet shall extend above the bottom of the surface casing and at least one hundred (100) feet shall extend below the bottom of surface casing. In addition, at least fifty (50) feet of cement shall be pumped extending from five feet below the restored ground level elevation down into the well bore.

Sec. 13-1520. Completion.

- (a) A copy of the completion report (Form 1002A) will be filed with the Oil and Gas Inspector within thirty (30) days after the well is completed.
- (b) The operator will call the Oil and Gas Inspector for a final inspection of the drilling site after completion of the well and after all reserve pits have been filled and leveled and the well is ready for production.

Sec. 13-1521. Motive power.

Motive power for all well-pumping equipment shall be electricity; provided, however, that in respect to wells in operation with nonelectric pumping equipment and which do not have the capability for electric power, the Oil and Gas Inspector shall have the authority to waive the requirements of this section if he determines in a particular case that electric pumping equipment is not necessary to protect the public health, safety or welfare.

Sec. 13-1522. Oil and Gas Inspector.

- (a) The City Manager shall employ a qualified person, persons, firm or corporation as an Oil and Gas Inspector, whose duty it shall be to enforce the applicable provisions of this chapter.
- (b) The Oil and Gas Inspector shall have the authority to issue such orders or directives as are required to carry out the intent and purpose of this chapter and its particular provisions. This includes issuing an order ceasing operation of a well or well site that is in violation of any of the provisions of this chapter until such time that compliance is achieved. Failure to abide by any such order or directive shall be a violation of this chapter.
- (c) The Oil and Gas Inspector shall have the authority to go upon and inspect any premises covered by the terms of this chapter to ascertain whether [the applicable provisions of] this chapter and the applicable laws, rules, regulations, standards or

directives of the state are being complied with. Failure to permit access to the Oil and Gas Inspector shall be deemed a violation of this chapter.

- (d) The Oil and Gas Inspector shall have the authority to request and receive any records, specified in this article, relating to the status or condition of any well or project or the appurtenances thereof within the City. Failure to provide any such requested material shall be deemed a violation of this chapter.

Sec. 13-1523. Penalties.

- (a) Failure to comply with any of the terms and conditions of this article may result in the revocation of the permit issued hereunder and further may result in the forfeiture of any and all amounts deposited with the City in order to repair any damages to public property which may have resulted from the failure to comply with this article.
- (b) Any persons, company or corporation violating any of the provisions of this article, or causing or permitting the same to be done, may be deemed guilty of a misdemeanor and, upon conviction thereof, may be punished by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) per day. Each day of violation shall be deemed a separate offense under this article.

DRAFT

Draft Amendments to Chapter 19

Sec. 19-303. Preliminary plat: Contents.

The preliminary plat shall be drawn at a scale of not more than one hundred (100) feet to the inch, except where impractical and shall show:

* * *

- U. In the instance where there is one (1) or more active oil and/or gas well(s), lease road(s), tank batteries, flow lines, gas sales lines, dead man anchors or any other related equipment, located within a proposed preliminary plat, any and all such items shall be shown on the submitted preliminary plat. Both existing conditions and any proposed changes to the existing conditions must be indicated on the preliminary plat. The information shall include, but not be limited to, well access, size of the well location, including appurtenant equipment, any change in lay out or operations of the well site such as relocation of the lease road or moving of the tank batteries and flow lines, fencing, easements for flow lines, gas sales line, communication cables, and electric power lines. The information must also stipulate the parties responsible for constructing any lease road and approach, ~~and fencing~~. Easements necessary to provide for flow lines, gas sales lines, power supply lines and communication cables must be designated in writing. All information required must be shown on a site plan that has been reviewed and approved for compliance with oil and gas ordinances. The subdivider shall provide written notice via certified mail of the submission of the Preliminary Plat and of the well operator's fencing obligations under Section 13-1508 to the well operator. A copy of the site plan, written notice, and proof of service on the well operator shall be provided to the oil and gas inspector to become part of the well records until such time of the plugging and restoration of well location(s) has been completed. Oil well operators shall be notified by the oil and gas inspector of any predevelopment informational meeting(s) as an interested party where a preliminary plat contains a well(s), lease road, tank battery, flow line, gas sales line, dead man anchors, or any other related equipment that they operate. Notice shall be given in the same format as property owners within the required notice area.

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City	Types of Policies/Coverage Required	\$ Amt. Coverage	Days of Notice for Cancellation	Other Specs
Norman, OK	Commercial General Liability Pollution Injury to Persons Damage to Property	\$1,000,000 \$100,000 per person; \$300,000 per accident \$200,000 per occurrence	30 Days Notice	City add'l insured
OKC, OK	Bond/Letter of Credit Comprehensive or Commercial General Liability Pollution Injury to Persons Damage to Property	\$25,000 \$1,000,000 \$100,000 per person; \$300,000 per accident \$200,000 per occurrence	30 Days Notice	City and OKC Water Utilities Trust as add'l insured (and City of Edmond where wells are dug within 1 mile of Arcadia Lake)
Edmond, OK	Bond/Letter of Credit Comprehensive Public Liability and Contractual Liability Pollution Injury to Persons Damage to Property	\$25,000 \$1,000,000 per occurrence \$1,000,000 per occurrence \$1,000,000 per occurrence	30 Days Notice	
Stillwater, OK	Bond/Letter of Credit No Specification Injury to Persons	\$25,000 \$100,000 per occurrence	30 Days Notice	

Lawton, OK	Damage to Property No Specification Pollution Injury to Persons Damage to Property Bond	\$100,000 per occurrence \$5,000,000 \$5,000,000 \$5,000,000 \$25,000	10 Days Notice	City as beneficiary of Insurance Policy
Tulsa, OK	Comprehensive Public Liability Pollution Injury to Persons Damage to Property	\$1,000,000 per occurrence \$175,000 a person; \$1,000,000 for any number of claims arising out of a single occurrence \$500,000 per occurrence	30 Days Notice	City as add'l insured; Pollution deductible cannot exceed \$25,000
Moore, OK	Comprehensive Public Liability Pollution Injury to Persons Damage to Property Bond	\$1,000,000 per occurrence \$100,000 a person; \$300,000 per accident \$200,000 per occurrence \$25,000	30 Days Notice	City as add'l insured; has option to apply with City to reduce policy amts after completion of producing well in full compliance with the ordinance; Pollution deductible cannot exceed \$25,000
Houston, TX	Public Liability Injury to Persons Damage to Property	\$100,000 a person; \$300,000 per accident \$100,000 per occurrence	15 Days Notice	

	Auto Liability WC	\$20,000,000 \$1,000,000 per accident, \$1,000,000 per employee, \$1,000,000 for occupational disease		
	Excess Liability Cash Bond	\$10,000,000 \$200,000 per pad site		
	Fund Deposited w/ City	\$50,000 for reimbursement of any related expenses		
Flower Mound, TX	Commercial General Liability Pollution Injury to Persons Damage to Property Excess Liability Control of Well WC Auto Liability Bond/Letter of Credit	\$25,000,000 per loss \$25,000,000 per occurrence \$25,000,000 per occurrence \$50,000,000 \$5,000,000 per occurrence with no aggregate or an aggregate of \$10,000,000 \$1,000,000 per accident \$1,000,000 per occurrence \$50,000 per well or \$10,000 if well is already producing and \$200,000 per pad site	30 Days Notice	City as add'l insured
Arlington, TX	Commercial General Liability Pollution	\$5,000,000 for pollution	30 Days Notice	City as add'l insured

Hurst, TX	<p>Injury to Persons</p> <p>Damage to Property</p> <p>Excess Liability</p> <p>Control of Well</p> <p>WC</p> <p>Auto Liability</p> <p>Bond/Letter of Credit</p> <p>Commercial General Liability</p>	<p>\$1,000,000 per occurrence</p> <p>\$1,000,000 per occurrence</p> <p>\$10,000,000</p> <p>\$5,000,000 per occurrence</p> <p>\$500,000 per accident</p> <p>\$1,000,000 per occurrence</p> <p>\$100,000 for 1 well, \$150,000 for 2-5 wells, \$250,000 for 6 or more wells</p>	30 Days Notice	City as add ¹ insured
	<p>Pollution</p> <p>Injury to Persons</p> <p>Damage to Property</p> <p>Excess Liability</p> <p>Control of Well</p> <p>WC</p> <p>Auto Liability</p> <p>Bond/Letter of Credit</p>	<p>\$1,000,000 per occurrence for pollution with an annual aggregate of \$10,000,000</p> <p>\$1,000,000 per occurrence</p> <p>\$1,000,000 per occurrence</p> <p>\$5,000,000</p> <p>\$5,000,000 per occurrence with no aggregate or aggregate of \$10,000,000</p> <p>\$500,000 per accident</p> <p>\$1,000,000 per occurrence</p> <p>\$50,000 per well or \$10,000 if well is already producing</p>		

Wichita, KS	Bond Indemnity or Casualty Insurance	\$50,000 for new or \$15,000 to operate well currently producing	30 Days Notice	City as add'l insured
	Injury to Persons Damage to Property Excess Liability Bond	\$500,000 a person; \$500,000 per accident \$100,000 per occurrence \$2,000,000 \$100,000 for new or \$10,000 to operate well currently producing		
Denton, TX	Commercial General Liability Pollution Injury to Persons Damage to Property Auto Liability WC Excess Liability Control of Well	\$1,000,000 per occurrence \$1,000,000 per occurrence \$1,000,000 per occurrence \$1,000,000 per occurrence \$100,000 per accident \$24,000,000 \$5,000,000	30 Days Notice	City as add'l insured
McKinney, TX	Commercial General Liability Pollution Injury to Persons Damage to Property Excess Liability	\$1,000,000 per loss with \$10,000,000 annual aggregate for pollution \$1,000,000 per occurrence \$1,000,000 per occurrence \$5,000,000	30 Days Notice	City as add'l insured

Fort Worth, TX	<p>Control of Well</p> <p>WC</p> <p>Auto Liability</p> <p>Bond</p> <p>Commercial General Liability</p> <p>Pollution</p> <p>Injury to Persons</p> <p>Damage to Property</p> <p>Auto Liability</p> <p>Excess Liability</p> <p>Control of Well</p> <p>WC</p>	<p>\$5,000,000</p> <p>\$500,000 per accident</p> <p>\$1,000,000 per occurrence</p> <p>\$50,000 for new, may submit request to reduce to \$10,000 once well is producing</p>	30 Days Notice	City as add'l insured
Southlake, TX	<p>Commercial or Comprehensive General Liability</p> <p>Pollution</p> <p>Injury to Persons</p> <p>Damage to Property</p>	<p>\$500,000 per accident</p> <p>\$25,000,000 per occurrence</p> <p>\$10,000,000 per occurrence with \$25,000,000 annual general aggregate</p> <p>\$10,000,000 per occurrence with \$25,000,000 annual general aggregate</p>	30 Days Notice	City as add'l insured; Excess Liability must include Control of Well

Proposed Oil and Gas Ordinance Amendments

Section to be Amended	Proposed Amendment	Comments from Operators
13-1501(a)(2)-(3) Permits Required	Increase re-entry fee from \$1,000 to \$3,000	<ul style="list-style-type: none"> ➤ Fees are too high—higher than Oklahoma City ➤ Need to add definition of 'producing well and surface facilities'
13-1501(b)(12)-(14): Permits Required	New required documents for permit – agreement from surface owner; maps/drawings showing how water is to be diverted around site; SPCC plan	<ul style="list-style-type: none"> ➤ Do not want to provide lease with surface owner (terms are confidential); agreed to provide signed statement or letter from property owner instead ➤ Maps/drawings already contained in SPCC plan, unnecessary extra work ➤ Do not want to provide SPCC plans because they are large; not finished until after drilling is complete; only required by EPA to keep (not provide to EPA)
13-1501(d): Permits Required	When annual inspection fee is paid, must provide SPCC Plan	<ul style="list-style-type: none"> ➤ Same comments as above—EPA does not require document to be provided to them, merely kept by operator, with willing to produce upon request of O&G Inspectors (if necessary)
13-1502.1: Insurance Requirements	City is considering potential increases to insurance requirements and clarifying language regarding City being additional insured	<ul style="list-style-type: none"> ➤ Operators do not want insurance limits to go up; stressed that Norman wells have been accident-free for many years ➤ Asked if City could take out insurance policy and operators could be assessed fee to cover costs of insurance policy
13-1506: Permits Required	Proposed Ordinance 0-14157 RE: Fencing	<ul style="list-style-type: none"> ➤ Some operators will plug wells rather than fence

	<ul style="list-style-type: none"> ➤ Mahaffey: case law does not support this, disagrees with Balkman's ruling in Raimer case ➤ Standard practice for developer to pay for fencing and relocation of lines; burden of fencing should be on the party coming to the well site ➤ Mineral estate is dominant ➤ Not clear where fence must be placed – should be around well bore and tanks ➤ Need provision in ordinance to give O&G Inspector discretion to modify fencing requirements in appropriate cases ➤ Cattle will destroy chainlink fences; farmers do not like chainlink ➤ Existing surface agreements may be contrary to proposed fencing requirements ➤ Should have option to exit better from property rather than to fence ➤ Fencing requirement should not be restrictive
<p>13-1508: Premises Maintained</p>	<p>Requirement for submittal of production</p>
	<p>➤ Homeland Security regulations may prohibit/discourage making this type of plan available to the public b/c of</p>

	site plan within 90 days of completion of well	potential for terrorist attacks
13-1509: Drilling Location	Removes requirement for compliance with HUD book; requires all wells, not just combustion engines, to be 600 feet from houses or businesses	<ul style="list-style-type: none"> ➤ Needs to specify level of detail required ➤ OK with removal of HUD book requirement, but had other concerns ➤ Want to remove prohibition on drilling on property contained within a COS ➤ If well already drilled, don't want to have to get subsequent waivers for wells drilled on same well site (Finley)
Section 13-1510: Storage Tanks	Requires steel or concrete containment with liner	<ul style="list-style-type: none"> ➤ OK with this amendment, but would like to remove requirement for waiver from adjacent property owner if additional tanks are added to a site with existing tanks (Finley)
Section 13-1511: Tubing	All wells shall be equipped with stuffing box leak detector	<ul style="list-style-type: none"> ➤ Technology doesn't work consistently and is expensive; this is job of the pumper ➤ Prefer for O&G Inspector to order the well to be shut in until cleaned up
Section 13-1513: Water Testing	Water wells within 1/4 mile of oil well shall be tested prior to drilling, at completion, and annually thereafter	<ul style="list-style-type: none"> ➤ Want to clarify that requirement only applies to new wells ➤ Operator may not have permission to go on private property to test water wells ➤ If water well owner waives testing, then no testing ➤ Concerned this is step toward testing around existing wells



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JOHN P. ALBERT
*Also admitted in Kansas
**Also admitted in Texas

November 5, 2014

VIA-FIRST CLASS MAIL & EMAIL

Leah Messner, Assistant City Attorney
City of Norman, Oklahoma
201 West Gray Street
P.O. Box 370
Norman, Oklahoma 73070

MEMORANDUM OF LAW

Re: City of Norman Zoning Amendments; Oil and Gas Well Location Fencing.

Dear Ms. Messner:

Thank you for allowing me to submit this memorandum of law on behalf of oil and natural gas operators, non-operator working interest owners, and royalty interest owners. The issues discussed in this memorandum are important to the oil and gas industry and property owners.

Introduction

The City of Norman is undertaking the process of amending its "Code of Ordinances" at "Article XV: Oil, Gas and Mineral Production," specifically at § 13-1508(c), which, if enacted, will significantly and adversely affect producing oil and natural gas wells (the "Wells") operating within Norman city limits. The proposed amendments at issue are as follows:

- (1) Require six (6)-foot tall chain-link fencing with three strands of barbed wire at the top around all wells and tank batteries;
- (2) Require landscaping to screen well sites when visible from a public street;
- (3) Identify the well operator as the party responsible for maintaining the fencing;

(4) Clarify that fencing shall not be required on drill sites during initial drilling, completion, or reworking operations as long as twenty-four (24) hour onsite supervision is provided. However, a secured entrance gate on the access road containing a lock (accessible to appropriate City Staff) shall be required, and all gates are to be kept locked when the Operator or his employees are not on the premises; And

(5) Require all existing wells to comply with the current fencing requirements within one year from the date of the approval of the amendment.

See "Exhibit A," August 21, 2014, "Office Memorandum to Mayor and Council Members," attached hereto. These five (5) proposed amendments are hereinafter referred to as the "Amendments."

Reservation and Qualification

This memorandum of law is limited in application to the following oil and/or gas wells located within the city limits of Norman, Oklahoma:

All oil and/or natural gas wells (the "Wells") drilled and completed before [], 2014, and their corresponding locations, which are located within Norman city limits and currently in compliance with the Code of Ordinances for the City of Norman.

Issue

In the State of Oklahoma, are oil and gas operators under a duty to fence well locations?

Analysis

In Oklahoma, an oil and gas operator is under no duty to fence its well locations to prevent livestock from having access to a well location; however, an oil and gas operator is under a duty to not intentionally, willfully, or wantonly injure livestock. Mid-Continent Pet. Corp. v. Rhodes, 240 P.2d 95, 95-96 (Okla. 1951) rehearing denied (Jan. 22, 1952); see Peters Pet. Corp. v. Alred, 10 P.2d 705, 706 (Okla. 1932); see also Grenard v. Ports, 298 P.2d 430, 432 (Okla. 1956); Cf. Gage v. Texas, 395 P.2d 411, 413 (Okla. 1964); see also Summers Oil and Gas § 40:15 (3d ed.) ("Duty of oil and gas operators to maintain barriers for protection of livestock.").

The above-cited authorities are limited in their application to trespassing livestock. However, there are two (2) decisions applicable to humans, which decisions apply the attractive nuisance doctrine, an exception to the general rule that a landowner is under a duty to not intentionally, willfully, or wantonly injure a trespasser. Shell Pet. Corp. v. Beers, 91 P.2d 777, 778 (Okla. 1938) rehearing denied (June 27, 1939) (Syllabus by the Court).

In Shell, the plaintiff, on reaching the age of majority, filed a personal injury lawsuit based on the theory of attractive nuisance against Shell Petroleum Corporation, the defendant. When she was 4 years old, the plaintiff "mashed her fingers in a rod line on and oil and gas lease which her father was pumping for defendant, making it necessary to amputate her fingers." Shell, 91 P.2d at 779.

The Court in Shell analyzed the following facts:

For some time prior to the date of the injury, plaintiff's father had been employed by the defendant as a pumper on defendant's oil and gas lease. There were about eight pumping wells on this lease. The defendant furnished plaintiff's father with a house in which to live upon the lease. This house was located about 75 yards from the power house which supplied the power for the pumping of the wells. The lease was not located in the vicinity of any town or city, but there was a private road running north and south between the pump house and plaintiff's house which offered a means of access to the county section line roads. Also there was a path running from plaintiff's house to the pump house, exclusively for the use of the workers on the lease. Extending from the power house for some six to ten feet were iron rods, one for each well. These rods continuously moved back and forth resting on a "bull pen", which was in effect a small fence 12 or 15 inches high running partly around the power house some six or ten feet away. The rods coming from the power house passed over this bull pen and were then connected with rods coming from the oil wells by means of a hook and loop. The hook was connected to the lines coming from the power house and the loop was attached to the end of the lines leading to the wells. Thus an individual rod line running to a well might be hooked onto rods protruding from the power house, enabling each well to be pumped independently. When a particular well was not being pumped, the rod line running to that well was attached to a stationary rod protruding from the pump house beneath the moving rods. It was obvious that if one's hand became caught between the hook and the loop in connecting the rods, injury would result, and it required but slight effort to bring the hook and loop in contact with each other.

On May 20, 1920, some adult persons discovered plaintiff with her hand caught between the hook and the loop, and it was necessary to disconnect the rod lines in order to free her. One finger was entirely severed, and it was necessary to partially amputate two others. The injury was sustained on the opposite side of the power house from plaintiff's house. Two small children were with her at or near the power house at the time of the injury. It appears that

plaintiff, together with the other children, had been engaged in playing around the pump house at the time of the injury and plaintiff had some wild flowers in her hand. It is assumed that plaintiff must have attempted to connect the loop and hook as she had seen her father do on previous occasions. There was no fence around the power house. The plaintiff testified that she had no recollection of the injury.

The evidence was to the effect that this connection contrivance was standard equipment and similar in all material respects to the equipment universally used by producers of oil throughout the state, and that in the use of such equipment no guards or fences were ever employed. There was evidence that it would be impractical to construct fences to enclose the rods and connections. It was shown that oil producers generally conducted their pumping operations in the same manner as the defendant was then doing. The evidence was that plaintiff's father instructed her to remain away from the power house, and that the company rules prohibited anyone from going near the power house except those specifically authorized. Also, the evidence was uncontradicted that children had not previously been seen playing at that particular place. The evidence indicates that the defendant did not require the immediate attendance of the pumper or any other person at the point where this connection was placed during all the time the power was in operation.

Shell, 91 P.2d at 779.

In applying the doctrine of attractive nuisance, the factors of which are provided in the oft cited Lone Star Gas Co. v. Parsons, 14 P.2d 372 (Okla. 1932)¹ decision, the Court in Shell stated that "there is a strong tendency to limit, rather than extend the doctrine," and ultimately held that:

In view of these principles we are impelled to the conclusion that the judgment must be reversed. Under the evidence we do not think it can be said that the defendant could have anticipated the presence of the plaintiff or any child at the pump house or place where the injury occurred. The contrivance which caused the injury was not located near a town or city or near any playground or place where children frequently congregated or played. The

¹ "So in these cases we have the question of how uncommon is the instrumentality; how unusually dangerous it is; how attractive is it; what probability is there of children coming in contact with it; whether the probability is localized so that harm can be avoided, or is there merely a high probability that at some time and in some place children will come in contact with it, with nothing to indicate when and where the contact will come; how feasible is it to avoid danger of harm; how great would be the burden of avoiding or lessening danger of harm, and the effect of imposing such duty. And one outstanding inquiry that is often given scant consideration by the judges is the apparent intelligence of the child, his intelligent consciousness of the circumstances, and that he had reached the age where he would reasonably be expected not to tamper because of his appreciation of danger or appreciation of his want of right to tamper, so that no duty to protect him could reasonably be imposed." Lone Star Gas Co. v. Parsons, 14 P.2d at 373.

evidence does not show that any children had ever played around defendant's machinery prior to the time of the accident. On the contrary plaintiff's father testified that he had never seen children playing around the pumping equipment before, and that plaintiff had been repeatedly warned not to do so. We think the defendant could reasonably expect the plaintiff's father, who was the pumper in charge of the operations on the lease, to protect his child against injury by the pumping equipment. While the negligence of the parents of the plaintiff cannot be imputed to her (*Lone Star Gas. Co. v. Parsons*, supra), yet the right of the company to reasonably expect them to protect her goes to the question of the company's failure to exercise ordinary care.

Shell, 91 P.2d at 781-82 (citations omitted).

Another decision utilizing the same analysis is the Sinclair Prairie Oil Co. v. Smith, 99 P.2d 903 (Okla. 1940) decision. In Sinclair, the plaintiff, at four years of age, was seriously injured by a "swing or sweep" used as a part of a well pump jack operated by Sinclair Prairie Oil Company, the defendant. The plaintiff filed suit under the theory of attractive nuisance. The Court in Sinclair analyzed the following facts:

The evidence developed the following dominant facts: That for a number of months prior to July 13, 1937, the date of the injuries complained of, the defendant owned and operated an oil well on a tract of leased land in a residential suburban section of the city of Tulsa; the surface of the land being divided, subsequent to the drilling of the well, into lots and blocks a number of which were sold to the public.

Chas. D. Smith, plaintiff's father, was the owner of one of the lots upon which he had built a small house. The plaintiff lived with her parents in this home, which was located about 200 feet from, and in plain view of, the oil well, and swing or sweep complained about in the petition. Around twenty families, with about twenty-five small children, lived in homes located in the sparsely settled community in the neighborhood of the defendant's well.

The swing or sweep alluded to in the case is constructed of six and five-eighths casing welded in a "V" shape set on an angle of forty-five degrees which is attached to a four and one-half foot steel shaft set in the ground, in concrete, with a concrete hub around the shaft. The shaft is stationary and the swing or sweep is operated from the power plant with a completed stroke, or swing, of about 36 inches. The sweep is set six or eight inches above the ground. The casings forming the "V" at the open or lower end are about five feet apart. The rods used for pumping-one extending to the

power plant, and the other to the well-are connected to the "V" by clevises. The apparatus is constructed, so defendant's witnesses testified, to obtain power from the plant without "going across some lots and through peoples yards". On the date alleged the plaintiff, then about 19 months old, with some other children of the neighborhood, entered upon the defendant's lease, climbed upon the swing, fell off and received the injuries complained of. While the evidence on the point is not clear it appears probable that in falling from the swing the plaintiff's leg became encased between the swing and the ground.

Sinclair, 99 P.2d at 905-06. Important for this memorandum, the Court in Sinclair further stated:

The proof shows that the swing was constructed, operated and maintained as ordinary equipment such as is generally used by producers of oil in this state. It appears, too, that it is not customary in the oil and gas business to erect fences around, or to construct safety devices upon, sweep apparatus of the character here in issue. In fact, from the evidence, fences or safety devices in connection with the operation and maintenance of the machinery here under consideration are unheard of. Clearly, under the proof, and the law applicable, the defendant is absolved from liability unless we may say, under all the facts and surroundings present in the case, that liability attaches under the attractive nuisance doctrine.

Sinclair, 99 P.2d at 906.

Again, in Sinclair, the Oklahoma Supreme Court applied the attractive nuisance doctrine factors provided in the Lone Star Gas Co. v. Parsons, 14 P.2d 372, 373 (Okla. 1932) decision:

We are, however, brought face to face with the cold, stark facts revealed by the record here. The query is: What did the defendant leave undone in the operation of the sweep, that a reasonably prudent person would have done, in the circumstances, to guard against injury to others? In the case it is not shown that before the accident, children had been around, about or near the swing or well, or that the defendant's attention had previously been called to the probability of children being attracted to the premises. One may not reasonably say that the swing itself, or in its operation, was an inherently dangerous instrumentality. It contained no concealed, hidden or latent dangers. As stated, the apparatus was constructed, operated and maintained as equipment of like character is generally used.

Sinclair, 99 P.2d at 908.

Issue

If the City of Norman enacts the Amendments, will the Wells be considered preexisting, nonconforming uses?

Analysis

In Triangle Fraternity v. City of Norman, 63 P.3d 1 (Okla. 2003), the Oklahoma Supreme Court defined a non-conforming use:

[U]se of property relates to the use of land which existed prior to the enactment or change of a zoning ordinance. It is a use which is impermissible under the zoning code, but allowed because the use existed lawfully before the use restrictions became effective. Once a lawful nonconforming use of property is established in the City of Norman, it may continue from one owner to another, as long as the nonconforming use remains the same.

Triangle Fraternity, 63 P.3d at 5.

Does the Triangle Fraternity case limit the application of nonconforming use to the enactment of subsequent zoning ordinances, not to the Amendments at issue here? The answer is no.

11 OKLA. STAT. § 44-107.1 provides that “[t]he **lawful nonconforming use of a building, structure or premises** as such existed at the time of the adoption and recording of **any ordinance** affecting it, may be continued, although such use does not conform with the provisions of such ordinance.” (emphasis added). Further, at subsection (c), 11 OKLA. STAT. § 44-107.1 explicitly provides that: “**[n]othing in this section shall be construed to permit or authorize municipalities to terminate lawful nonconforming uses consisting of oil and/or gas activity.**” 11 OKLA. STAT. § 44-107.1 (emphasis added).

In addition, under Chapter 13 of the Code of Ordinances, at Sec. 13-3003, the city of Norman allows for a preexisting, nonconforming use as applied to an “impoundment yard.” Both Sec. 13-3003 and Sec. 13-1508(c) are codified under Chapter 13, “Licenses and Occupations.” From this language, the city of Norman intends for preexisting, nonconforming uses to be allowed not only pursuant to subsequently enacted zoning ordinances under Chapter 22, but also pursuant to the proposed Amendments to Sec. 13-1508(c), a part of Chapter 13.

If the Amendments are enacted and codified, the Wells should be considered lawful, preexisting, nonconforming uses, and therefore, the Amendments would be given prospective effect and be ineffective as against the Wells as currently operated within the Norman city limits.

Issue

Are the Wells considered “vested,” and therefore, protected from the Amendments’ proposed retroactive application?

Analysis

The city of Norman’s proposed Amendments to Sec. 13-1508(c) are currently drafted to apply retroactively. An apt recitation of the rule of law regarding retroactive municipal regulations is as follows: “[t]he enactment of retrospective municipal legislation may be constitutionally prohibited, but in the absence of this prohibition, there is no rule against retroactive municipal legislation unless it interferes with contract or vested rights.” 6 McQuillin on the Law of Municipal Corporations § 20:77 (3d ed) (footnotes omitted) (emphasis added).

Sec. 1-105 of Norman’s Code of Ordinances mandates that “[n]othing contained in the provisions of this Code or the ordinance adopting this Code shall affect any rights, interests, or violations, which arose, were established or incurred before the effective date of the particular Code provisions.” Sec. 1-105 appears to be modeled after 11 OKLA. STAT. § 1-103, which provides that: “[t]he adoption of this act **shall not** be construed to repeal or in any way affect or modify: (1) **Any substantive or fixed right**” 11 OKLA. STAT. § 1-103(1) (emphasis added).

The Wells are not prolific oil and gas producers: many of the Wells are marginally prolific. However, the Wells currently “hold by production” (“HBP”) oil and gas leases of record in the Cleveland County real property records. Oil and gas operators and royalty owners have vested property rights and vested contractual rights under these perpetuated oil and gas leases. These assets, including the Wells themselves, are constitutionally protected assets, investments, and vested property rights. The practical effect of the Amendments will render the Wells’ operation uneconomical and will result in a forfeiture of vested property rights protected not only by Sec. 1-105 of Norman’s Code of Ordinances and 11 OKLA. STAT. § 1-103(1), but also through the United States Constitution and the Constitution of the State of Oklahoma.²

Issue

If enacted and codified as proposed, will the Amendments operate ex post facto?

Analysis

In Calder v. Bull, 3 U.S. 386 (Aug. Term 1798), the United States Supreme Court defined “ex post facto.” The Oklahoma Criminal Court of Appeals in Ex parte Biggs, 54 P.2d 404 (Okla. Crim. App. 1935) cited the Calder v. Bull definition:

Discussing the proposition of what laws are ex post facto within the purview of the provision of the Constitution of the United States

² This memorandum of law does not address, but the undersigned recognizes the proposed Amendments may in fact work a taking of private property, and thus, the oil and gas operators, mineral owners, and royalty owners affected by the proposed Amendments, if enacted, may be entitled to fair market compensation.

herein involved, the Supreme Court of the United States in *Calder v. Bull*, supra, said:

'First. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal, and punishes such action.

Second. Every law that aggravates a crime, or makes it greater than it was, when committed.

Third. Every law that changes the punishment and inflicts a greater punishment, than the law annexed to the crime, when committed.

Fourth. Every law that alters the legal rules of evidence, and receives less, or different, testimony than the law required at the time of the commission of the offense, in order to convict the offender.'

Biggs, 54 P.2d at 406.³

Here, 11 OKLA. STAT. § 14-111 provides that a municipality may enforce its ordinances and "establish fines, penalties, and imprisonment . . . for any offense in violation of its ordinances, which shall be recoverable together with costs of suit." 11 OKLA. STAT. § 14-111(A). At Sec. 13-1523, under "Article XV: Oil, Gas and Mineral Production," the Norman Code of Ordinances provide not for imprisonment, but for penalties in the form of permit revocation, forfeiture of funds deposited for remediation, misdemeanor conviction, and fines. See Sec. 13-1523(A)-(B).

The application of Calder v. Bull and Ex parte Biggs to the circumstances here is rudimentary: the proposed Amendments, if enacted, make the operation of the Wells, currently a legal activity, illegal, and therefore, *ex post facto* and unconstitutional.

Issue

Is the recent creation of a plat creating 10-acre, or more, lots where oil and gas production is currently prohibited, arbitrary, capricious, and unreasonable?⁴

³ It is noteworthy that in Biggs, the Oklahoma Criminal Court of Appeal determined that an Oklahoma City ordinance, which required a permit and a bond before an oil and gas well could be drilled in the city limits, was not *ex post facto*, but for reasons not applicable here.

⁴ Pursuant to a telephone conversation on November 3, 2014, with Leah Messner at the Norman City Attorney's Office, I was notified that at a recent city council meeting with Mr. Greg Mahaffey present, who had to leave early towards the end of said meeting, oil and gas operators expressed concern about a recent creation of a plat in the Norman city limits creating 10-acre lots, or larger, and where oil and gas production is currently prohibited. Ms. Messner requested that this memorandum of law address this specific issue.

Analysis

Although municipalities are girded with the power to zone real property, the power to zone must not be arbitrary, capricious, or unreasonable in “conception or application, since the zoning power does not extend to unreasonable or arbitrary intermeddling with the private ownership of property.” Clouser v. City of Norman, 393 P.2d 827, 829 (Okla. 1964).

This particular issue is fact sensitive, but the Clouser opinion provides applicable guidance. In March 1959, the city of Norman enacted an ordinance that annexed four (4) tracts of land with a zoning classification of R-1 residential district for single family dwellings and did not provide for the drilling of an oil well. Clouser, 393 P.2d at 828-29. In Clouser, one appellate issue addressed by the Court was whether or not the permitted area, defined as R-1 residential district for single family dwellings, which did not provide for the drilling of an oil or gas well, was valid. Clouser, 393 P.2d at 829.

The Court in Clouser relied heavily on the Beveridge v. Harper & Turner Oil Trust, 35 P.2d 435 (Okla. 1934) decision, which was later overruled on other grounds by the Oklahoma City v. Harris, 126 P.2d 988 (Okla. 1941) decision. In Clouser, the Court stated:

None of the elements which were controlling in the Beveridge case is present here. There was no dense population in the area. The only persons in the entire ten-acre tract were the Clouser family. The only improvements belonged to the Clousers. The center of this ten-acre tract is more than 300 feet from the edge of the tract. The development of this tract could not affect other areas nor could it affect the future development of the city. Therefore, under the facts and circumstances in this case and under the rule set out in the Beveridge case, supra, the validity of this pre-zoning as applied to the Clouser tract herein is unreasonable and arbitrary. We therefore hold this zoning ordinance to be arbitrary, unreasonable and void as to the Clouser tract as bearing no reasonable relation to the public health, safety, morals or general welfare. While said zoning ordinance may be generally valid for the purposes intended, it was invalid as applied to the Clouser tract. It therefore follows that there was no zoning ordinance in effect on the Clouser land at the date of the execution of the oil and gas lease.

Clouser, 393 P.2d at 830.

Conclusion

1. In the State of Oklahoma, an oil and gas operator is under no duty to fence its well locations.
2. The Wells should be considered preexisting, nonconforming uses.
3. The Wells, the oil and gas leases perpetuated and held by production, the mineral interests encumbered by these same oil and gas leases, working interests, and royalty interests are vested property rights subject to protection pursuant to state law, Norman city ordinances, the United States Constitution, and the Constitution of the State of Oklahoma.
4. If enacted, the proposed Amendments will operate as unconstitutional ex post facto legislative enactments.
5. The recently platted portion of the city of Norman where 10-acre tracts have been created and where oil and gas production is currently prohibited is arbitrary, capricious, and unreasonable.

Sincerely,


Gregory L. Mahaffey

cc:

Kristina Bell, Assistant District Attorney

Clients

CITY COUNCIL CONFERENCE

**MUNICIPAL BUILDING CONFERENCE ROOM
201 WEST GRAY, NORMAN, OK**

AUGUST 26, 2014

5:30 P.M.

**DISCUSSION REGARDING OIL AND GAS WELL SITE SECURITY AND
FENCING.**





TO: Mayor and Council Members
FROM: Susan Connors, AICP, Director, Planning and Community Development Department
DATE: August 21, 2014
RE: Oil and Gas Well Site Security and Fencing

BACKGROUND

At the November 13, 2013 Oversight Committee meeting the committee members discussed oil well site security. The Committee requested that staff prepare information on the City of Norman's well site safety policy. Staff prepared a report on this that was distributed to City Council members in December, 2013. This topic was then placed on the Oversight Committee's May 14, 2014 agenda. At that meeting Staff presented background information on the history of the City's oil well site security and fencing ordinance. Changes to the current ordinance regarding fencing, screening, and security were discussed by the Oversight Committee.

The Committee discussed and supported fencing around well sites and directed Staff to draft a revised Ordinance incorporating the requested changes as well as a phasing-in period requiring older well sites to comply. The Committee also requested information regarding the average cost for fencing around well sites. Staff was also asked to get feedback from those in the affected industry. The Committee requested Staff bring back information to a future Council Conference.

DISCUSSION

I. Requested Ordinance Amendments

The Committee requested that Staff draft a revised Ordinance amending Section 13-1508(c) by incorporating the following changes:

1. Require six (6)-foot tall chain-link fencing with three (3) strands of barbed wire at the top around all wells and tank batteries;
2. Require landscaping to screen well sites when visible from a public street;
3. Identify the well operator as the party responsible for maintaining the fencing;
4. Clarify that fencing shall not be required on drill sites during initial drilling, completion, or reworking operations as long as twenty-four (24) hour onsite supervision is provided. However, a secured entrance gate on the

office memorandum

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access road containing a lock (accessible to appropriate City Staff) shall be required, and all gates are to be kept locked when the Operator or his employees are not on the premises; and

5. Require all existing wells to comply with the current fencing requirements within one year from the date of the approval of the amendment.

Attached are the current Section 13-508, an annotated draft of the requested amendments, and a clean copy of the requested revised ordinance.

II. Average Fencing Costs

The Committee also requested information regarding the average cost of fencing around well sites.

After consulting with several Operators, it is estimated that the average cost of fencing is running between \$25 - \$30 per linear foot. It is estimated that the average cost of fencing is running between \$4,000 - \$5,000 for a pumping unit and \$8,000 - \$14,000 for a tank battery, depending on the size and number of gates needed. (The two most recent well sites that have added fencing spent approximately \$11,200 for approximately 400 feet of fencing and approximately \$19,029 to fence a larger well site area.)

Older, existing wells might also have additional earth work, such as leveling uneven land or removing existing timber, that would result in additional cost.

III. Operators' Views on Proposed Amendments

Staff met with oil and gas operators on June 5, 2014 to discuss the proposed oil and gas well fencing Code amendments. There are 37 operators of oil and gas wells within the Norman City limits. Staff invited 10 operators to attend, and 6 invitees which Staff believed represented ownership of a majority of the wells in Norman attended the meeting. Those six operators were Veenker Resources; Finley Resources; Ettinger Engineering; Trinity Resources, Inc.; Southern Resources, Inc.; and C&L Oil and Gas Corporation.

The following is a summary of the operators' comments:

1. The operators were generally not in favor of changing the regulations on fencing for older wells, particularly since most of the wells in Norman are in rural areas.

2. The operators were unanimous in their opinion that if a well exists and development follows, the developer should install the fence around the well and tank batteries. This is what has historically occurred in Norman. The current requested change reverses that practice.

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Page 3

3. The operators also indicated that the fencing requirement may be a financial burden for small operators whose wells do not produce at a high rate.
4. The operators think that the current regulations are adequate and stated that they are pro-active in the maintenance of their sites because this is their business and they bear the financial liability risk if wells are not properly maintained or secured.
5. The operators noted that not all wells are the same, and lease agreements with property owners certainly vary. The operators felt that a one size fits all regulation is not appropriate.
6. The operators stated that some property owners do not want fences on their land because it is farm land or grazing land, and fences would reduce the amount of usable land for the property owner. In addition cows often use chain-link fences as scratching posts which can knock the fence over. If the fences also have barbed wire attached, then the cows could be injured by the barbed wire.
7. The operators believe that if a property already has a locked gate at the road, it does not seem necessary to add fencing around the well pump and tank batteries.
8. The operators also stated that if new regulations are enacted, it could take years to put them into effect because of the numerous lease agreements and obligations already included that would need to be amended. The operators do not believe that it is possible to fence all wells within one year.

STAFF OBSERVATIONS

Separation of Well and Tank Batteries - The proposed amendments clarify that the well pump and the tank batteries can be fenced separately. Often there is separation between the two and disallowing separation could unnecessarily require a single large fenced area.

Waiver by Landowner - At the Oversight meeting, there was some discussion about whether the fencing requirements could be waived by the landowner in rural areas or under certain circumstances, but the Committee indicated that it wanted the waiver removed, so that language providing for a waiver is not included in the current draft of the Ordinance.

Landscaping - The Committee requested language requiring landscaping but only where the well site is visible from a public street. The language included in this proposed amendment was adapted from Oklahoma City's

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ordinance. It should be noted, however, that Oklahoma City's ordinance allows well sites in platted areas whereas Norman's ordinance only permits well sites on unplatted land. Since these wells are located in rural or agricultural areas, landscaping could be problematic since there may be limited or no access to irrigation, which could prohibit landscaping from surviving.

One Year Compliance Requirement - The general consensus from the operators is that full compliance from all wells can not practically be accomplished within one year. The Legal Department is researching legal implications of utilizing a "phasing in" requirement, as opposed to a "grandfathering" approach. The legal research will be provided under separate cover.

RECOMMENDATION

This information is provided for the City Council's review and consideration. Staff will be available to answer questions.

Sec. 13-1508. Premises maintained.

(a)

The premises upon which any oil, gas or disposal well is drilled, operated or maintained shall be kept free of all accumulations of rubbish, litter, unused equipment or materials, excess rotary mud, salt water, waste oil or oil by-products and other waste, insofar as the same may be reasonably done in the conduct of operations.

(b)

The permittee will promptly restore the streets, sidewalks, vegetation and other public property which may be disturbed or damaged in the permittee's operations to their former condition, and the permittee will promptly clear all premises of all litter, trash and waste, and will, after abandonment, grade, level and restore said property to the same surface condition as practical and as possible, as existed prior to commencing operations.

(c)

Any person who completes any well as a producer shall enclose such well, together with its surface facilities, by a fence at least six (6) feet high and constructed of a material and in a manner so as to be impregnable to children and animals under ordinary or foreseeable circumstances; provided, that where the well site is greater than six hundred (600) feet from a dwelling or business structure, the Oil and Gas Inspector may waive the requirement of a fence or may designate the type of fence to be erected. Fences must be kept locked at all times when workers of the permittee are not present. A duplicate set of keys to such lock shall be filed with the Oil and Gas Inspector.

(d)

All lines that leave the premises (drilling pad), whether oil or gas, shall be buried in a trench so the top of the pipe is no less than three (3) feet deep and shall be pressure tested at a minimum of one hundred fifty (150) percent of the normal working pressure held for one (1) hour. The Oil and Gas Inspector shall be notified forty-eight (48) hours before the trench is started and in advance of the pressure test and may supervise same.

(e)

All leaks or spills, including, but not limited to, oil and salt water, over two (2) barrels are to be reported to the Oil and Gas Inspector within twenty-four (24) hours.

(f)

The operator shall maintain the premises of the growth of grass and weeds to less than twelve (12) inches in height along the lease road and within the designated well site area.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 13-1508(C) OF CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF NORMAN BY ____ ; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 1. That Sec. 13-1508(c) of Chapter 13 of the Code of Ordinances of the City of Norman shall be amended to read as follows:

Sec. 13-1508. Premises maintained.

(a) The premises upon which any oil, gas or disposal well is drilled, operated or maintained shall be kept free of all accumulations of rubbish, litter, unused equipment or materials, excess rotary mud, salt water, waste oil or oil by-products and other waste, insofar as the same may be reasonably done in the conduct of operations.

(b) The permittee will promptly restore the streets, sidewalks, vegetation and other public property which may be disturbed or damaged in the permittee's operations to their former condition, and the permittee will promptly clear all premises of all litter, trash and waste, and will, after abandonment, grade, level and restore said property to the same surface condition as practical and as possible, as existed prior to commencing operations.

(c) Any person who completes any well as a producer shall enclose such well, ~~together with and~~ its surface facilities, by a chain-link fence at least six (6) feet high and constructed of a material and in a manner so as to be impregnable to children and animals under ordinary or foreseeable circumstances; provided, that where the well site is greater less than six hundred (600) feet from a dwelling or business structure, the Oil and Gas Inspector may waive the requirement of a fence or may designate the type of fence to be erected. Fences must be kept locked at all times when workers of the permittee are not present. A duplicate set of keys to such lock shall be filed with the Oil and Gas Inspector. with three (3) strands of barbed wire across the top around the well and tank batteries. Well sites and tank batteries may be fenced separately as long as each separate fence complies with the requirements of this section.

1. The well operator shall be responsible for maintaining the fencing in compliance with the requirements of this section.
2. Fencing shall not be required on drill sites during initial drilling, completion, or reworking operations as long as twenty-four (24) hour onsite supervision is provided. However, a second entrance gate on the access road containing a lock

shall be provided. A duplicate set of keys, or some other appropriate means of accessibility, to such lock shall be provided to the Oil and Gas Inspector. All gates shall be kept locked when the well operator or his employees or agents are not on the premises.

3. When a well site is visible from a public street, such operator shall install evergreen vegetation or landscaped earth berms at least six (6) feet in height completely around the well site and all fences or lease equipment and facilities. Such vegetation or berms shall be sufficient to screen from view the structures sought to be screened and shall be kept in an attractive state and in good condition at all times. The Oil and Gas Inspector shall also have the power and authority to require such general landscaping of any well site as deemed necessary. The phrase, "general landscaping," shall mean the aesthetic improvement of land by adding trees, shrubs, lawns, ground cover, or flowers.

4. All wells already in existence within City limits as of the date of this amendment shall be in compliance with all fencing requirements of this section within one (1) year from the date of the approval of this amendment.

(d) All lines that leave the premises (drilling pad), whether oil or gas, shall be buried in a trench so the top of the pipe is no less than three (3) feet deep and shall be pressure tested at a minimum of one hundred fifty (150) percent of the normal working pressure held for one (1) hour. The Oil and Gas Inspector shall be notified forty-eight (48) hours before the trench is started and in advance of the pressure test and may supervise same.

(e) All leaks or spills, including, but not limited to, oil and salt water, over two (2) barrels are to be reported to the Oil and Gas Inspector within twenty-four (24) hours.

(f) The operator shall maintain the premises of the growth of grass and weeds to less than twelve (12) inches in height along the lease road and within the designated well site area.

§ 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this _____ day
of _____, 2014.

NOT ADOPTED this _____ day
of _____, 2014.

Cindy Rosenthal, Mayor

Cindy Rosenthal, Mayor

ATTEST:

Brenda Hall, City Clerk

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 13-1508(C) OF CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF NORMAN BY ___; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That Sec. 13-1508(c) of Chapter 13 of the Code of Ordinances of the City of Norman shall be amended to read as follows:

Sec. 13-1508. Premises maintained.

* * *

(c) Any person who completes any well as a producer shall enclose such well and its surface facilities by a chain-link fence at least six (6) feet high with three (3) strands of barbed wire across the top around the well and tank batteries. Well sites and tank batteries may be fenced separately as long as each separate fence complies with the requirements of this section.

1. The well operator shall be responsible for maintaining the fencing in compliance with the requirements of this section.
2. Fencing shall not be required on drill sites during initial drilling, completion, or reworking operations as long as twenty-four (24) hour onsite supervision is provided. However, a second entrance gate on the access road containing a lock shall be provided. A duplicate set of keys, or some other appropriate means of accessibility, to such lock shall be provided to the Oil and Gas Inspector. All gates shall be kept locked when the well operator or his employees or agents are not on the premises.
3. When a well site is visible from a public street, such operator shall install evergreen vegetation or landscaped earth berms at least six (6) feet in height completely around the well site and all fences or lease equipment and facilities. Such vegetation or berms shall be sufficient to screen from view the structures sought to be screened and shall be kept in an attractive state and in good condition at all times. The Oil and Gas Inspector shall also have the power and authority to require such general landscaping of any well site as deemed necessary. The

phrase, "general landscaping," shall mean the aesthetic improvement of land by adding trees, shrubs, lawns, ground cover, or flowers.

4. All wells already in existence within City limits as of the date of this amendment shall be in compliance with all fencing requirements of this section within one (1) year from the date of the approval of this amendment.

* * *

§ 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this _____ day
of _____, 2014.

NOT ADOPTED this _____ day
of _____, 2014.

Cindy Rosenthal, Mayor

Cindy Rosenthal, Mayor

ATTEST:

Brenda Hall, City Clerk