

February 17, 2015

Study Session Information

Oil and Gas Ordinance

CITY COUNCIL SPECIAL SESSION MINUTES

February 17, 2015

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in Special Session at 5:00 p.m. in the Municipal Building Conference Room on the 17th day of February, 2015, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 24 hours prior to the beginning of the meeting.

PRESENT:	Councilmembers Castleberry, Heiple, Holman, Jungman, Lang, Miller, and Mayor Rosenthal
ABSENT:	None
TARDY:	Councilmembers Allison and Williams

Item 1, being:

CONSIDERATION OF ADJOURNING INTO AN EXECUTIVE SESSION AS AUTHORIZED BY OKLAHOMA STATUTES, TITLE 25 § 307(B)(2), TO DISCUSS NEGOTIATIONS CONCERNING EMPLOYEES AND REPRESENTATIVES OF EMPLOYEE GROUPS

Councilmember Miller moved that the Special Session be adjourned out of and an Executive Session be convened into in order to discuss negotiations concerning employees and representatives of employee groups, which motion was duly seconded by Councilmember Holman; and the question being upon adjourning out of the Special Session and convening into an Executive Session in order to discuss negotiations concerning employees and representatives of employee groups, a vote was taken with the following result:

YEAS:	Councilmembers Castleberry, Heiple, Holman, Jungman, Lang, Miller, and Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the Special Session adjourned out of; and an Executive Session was convened into in order to discuss negotiations concerning employees and representatives of employee groups.

The City Council adjourned into Executive Session at 5:01 p.m. Mr. Steve Lewis, City Manager; Mr. Jeff Bryant, City Attorney; Ms. Gala Hicks, Director of Human Resources; and Mr. Michael Bates, Labor Consultant, were in attendance at the Executive Session.

Mayor Rosenthal acknowledged return to Open Session.

Thereupon, Councilmember Williams moved that the Special Session be reconvened, which motion was duly seconded by Councilmember Miller; and the question being upon reconvening the Special Session, a vote was taken with the following result:

YEAS:	Councilmembers Allison, Castleberry, Heiple, Holman, Jungman, Lang, Miller, Williams, and Mayor Rosenthal
NAYES:	None

The Mayor declared the motion carried and the Special Session was reconvened at 5:35 p.m. in the City Council Multi-Purpose Room. The Mayor said negotiations concerning employees and representatives of employee groups were discussed in Executive Session. No action was taken and no votes were cast.

\* \* \* \* \*

Item 2, being:

CONTINUED DISCUSSION REGARDING PROPOSED ORDINANCE TO INCREASE FEES;  
IMPROVE SAFETY AND STRENGTHEN ENVIRONMENTAL STANDARDS AND CONTROLS  
FOR OIL, GAS AND MINERAL PRODUCTION SITES.

Ms. Susan Connors, Director of Planning and Community Development, highlighted a series of discussions the Oversight Committee has had regarding proposed oil and gas ordinance amendments to include:

- November 13, 2013: Oversight Committee discussed oil well site security;
- December 2013: Staff prepared and distributed a report to the Committee regarding the City of Norman's well site safety policy at the Committee's request;
- May 14, 2014: Oil well site security and safety was placed on the Oversight Committee agenda for further discussion. Staff presented background information on the history of the City's oil well site security and fencing language in the current code and changes to the current code language regarding fencing, screening, and security were discussed as well. 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 Staff to gather information regarding the average cost for fencing around well sites, gather information from those in the affected industry, and bring back the information to a future Council Conference;
- June 5, 2014: Staff met with industry representatives to get feedback on the proposed changes to fencing and security for oil and gas wells;
- August 26, 2014: Full Council discussed oil and gas well fencing at the Council conference and requested Staff seek additional input from oil well operators and mineral interest owners;
- September 18, 2014: Oversight Committee discussed oil and gas regulations in the Lake Thunderbird Watershed. The Committee requested Staff to meet again with industry representatives to discuss ideas and gather their feedback as well as prepare additional information regarding the following:
  - ❖ Research insurance requirements for other cities;
  - ❖ Provide specific language on location distance from ground water;
  - ❖ Spill contingency plans with permit – may consider engineering solutions in Water Quality Protection Zone (WQPZ) if meeting additional requirements;
  - ❖ Look at entire floodplain, not just floodway;
  - ❖ Consider only steel containment for tank batteries;
  - ❖ Storage of chemicals in original containers;
  - ❖ Water diversion during the drilling process; and
  - ❖ Best practices for water protection.
- October 23, 2014: Staff met with 13 companies and went page by page discussing the proposed amendments. The City of Norman's 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. Staff from the Legal Department reviewed the Memorandum and provided a confidential memorandum to Council regarding that subject;
- November 13, 2014: Oversight Committee met and discussed proposed changes to the draft Ordinance. The Committee requested Staff to gather some additional information and make changes to the proposed Ordinance, primarily focusing on five areas to include: fencing, water testing, water quality protection zones; waivers; and insurance requirements;
- December 18, 2014: Oversight Committee discussed proposed changes to the draft Ordinance and the Committee recommended moving the draft Ordinance forward to a Study Session on January 20, 2015; and
- January 20, 2015: Full Council discussed proposed ordinance amendments at a Council Study Session and had questions regarding waivers, insurance, and water protection. Council also requested Staff meet with citizen groups.

#### Waivers

Council requested Staff provide additional information regarding Finley Resources' request to allow one waiver to cover multiple well bores on the same pad within 600 feet of a dwelling or business structure, as well as whether or not the City of Oklahoma City uses a waiver process to address multiple well bores.

Oklahoma City has a waiver process for wells proposed to be located less than 300 feet from dwelling or structure for human occupancy or 600 feet from public buildings, schools, or religious buildings:

- When a well is permitted, if there are multiple well bores requested for the same well site, the waiver covers all the well bores *requested*.
- If additional well bores are requested after a permit is approved, a new waiver is required.

Item 2, continued:

Sunset provision is typically a measure in law that provides that law will cease to have effect after a certain date unless legislative action is taken to renew the law:

- Case law indicates that implementing a sunset provision on existing waivers may create property right issues.
- As to a sunset provision on future waiver, it may be difficult to defend a restriction on a property owner's rights to waive the ordinance provision because of the argument such a restriction was not intended to protect health, safety, or welfare of citizenry, (rather to protect private property values).

Councilmember Jungman asked Staff if they are suggesting the sunset complication means the waiver has to be permanent and, if so, do all cities issue permanent waivers like this? Ms. Leah Messner, Assistant City Attorney said this is the City of Oklahoma City's (OKC) process, i.e., OKC has a waiver process and one waiver will cover multiple well bores, if multiple bores are requested on the initial permit. She said if additional bores are requested after the initial permit, an additional waiver must be requested for that bore.

Councilmember Jungman asked whether the proposed ordinance states "a new permit would not need a new waiver", i.e., the "old" waiver for well bores would apply to both the current permit (at the time the waiver was initially received) and all future well bores. Ms. Messner said yes, that is how the City of Fort Worth handles their permits and waivers as well as including a requirement to record the waiver in the property records and that is what is included in the draft ordinance.

Councilmember Jungman said he is concerned with the fact that a person from 30 years ago can submit a permanent waiver for a well bore; therefore, the person not only waived the conventional bores, but also the horizontal bores that are acceptable with new technology. He said if a waiver is permanent the waiver may cover future technology for boring that does not exist today, whether that is 10 years, 20 years, or 50 years. Mr. Bryant said that is correct as currently written; however, OKC's process for oil and gas permits requires the applicant to list the number of well bores on the permit. He said under OKC's process, if new technology is discovered and the applicant would like to drill additional bores after the initial request, the applicant must request a new waiver that will include the number of well bores to be drilled. Councilmember Jungman felt Norman should do waivers for well bores the same way OKC does, not Fort Worth and Mr. Bryant said Staff thought the issue was whether or not once the waiver is done can the City put a sunset provision on the waiver? Councilmember Jungman said he previously mentioned "sunset" because it made sense to him at the time.

Mr. Bryant said it is legally difficult to regulate for health and safety reasons but this appears to be more about regulation for property values. Councilmember Jungman felt a waiver should not be permanent because over the course of decades, technology can change and Norman will only get more compact/compressed, not smaller. Councilmember Castleberry said once a property right is granted that property right cannot be taken back from someone and Councilmember Jungman said that is just what OKC does. Councilmember Castleberry disagreed, stating only if an applicant would like to get an additional well. Councilmember Jungman said OKC does, because if you live in OKC and request additional well bores on a well pad that has already drilled the number of well bores listed on the *initial* permit you must obtain a new waiver.

Mr. Bryant said a new bore with a different hole will require a new oil and gas permit in OKC. As to the waiver (on well bores) the number of well bores is listed on the initial permit. For example: If an applicant is granted five (5) well bores; only one (1) well bore is drilled using current technology and no other well bores are drilled. Ten (10) years pass and meanwhile, during the 10 year time period, new technology has been discovered. The applicant can still drill four (4) well bores because they were granted a total of five (5) well bores on the initial permit and waiver. Mr. Bryant said regardless of the number of years in-between the well bores, the initial number of well bores is covered under the initial permit and waiver. He said if the applicant would like to drill additional well bores after the initial requested five (5) well bores, the applicant must obtain a NEW permit and a NEW waiver. Councilmember Jungman said that made sense to him because the applicant waived five (5) well bores and therefore, the waiver is not permanent.

Councilmember Jungman and Mayor Rosenthal asked if the current proposed ordinance is for "unlimited bores?" Mr. Bryant said yes, the proposed draft is for unlimited well bores such as the Fort Worth process, but now he thinks is hearing the majority may like to mirror OKC's well bore waiver, i.e., allowing only a specified number of well bores as requested on the initial oil and gas permit. Mayor Rosenthal said yes, but felt additional discussion and input from Council was needed. She asked Council for their input regarding OKC's permit and waiver process. Mayor Rosenthal felt it would be appropriate to follow up the waivers with the notice of filing requirement. She said it appears there is Council consensus to emulate Oklahoma City's ordinance, but include the notice of filing.

Item 2, continued:

Ms. Connors said it is important to remember that waivers are from property owners and well permits are from the OCC. She said well permits typically expire after six months, or on occasion, after one year; and if they expire the applicant would need to reapply with the City and re-notify any adjacent property owners. Councilmember Jungman asked Staff whether the City would re-notify adjacent property owners even if they already waived and Ms. Connors said re-notification would occur because of the new permit application.

Councilmember Castleberry said an applicant could attain a permit and theoretically obtain as many waivers as they can for well bores, even if they decide not to do as many well bores as they listed on the initial permit and Ms. Connors said that is correct. She stated to keep in mind the permits are issued by OCC and the City, but the waivers are obtained from the property owners. Mr. Bryant said the negotiations for well bore waivers are done between the oil well operators and property owners. Mayor Rosenthal felt this process would make the person(s) who is signing the waiver much more aware of the potential magnitude of drilling activity that can go on adjacent to them and Councilmember Jungman said it would not be adjacent to them, but rather on their property. Councilmember Jungman said adjacent property owners could also sign a waiver and Councilmember Miller said yes, a waiver for the 600 foot requirement, but not for the number of well bores on a well site that is not located on their property or even adjacent to their property. Councilmember Miller felt separating the different types of waivers within the ordinance would make it clearer, i.e., 600 foot requirement; number of well bores; and water well testing.

Chairman Jungman asked Staff for clarification on placement of tank batteries, specifically, can oil and gas companies place a tank battery inside the 600 feet without a waiver from the adjacent property owner and Ms. Connors said the proposed ordinance states a tank battery cannot be placed within 600 feet from a habitable structure.

#### **Water Protection**

Ms. Connors said several comments were made at the January 20, 2015, Study Session regarding the proposal to prohibit drilling within the mapped Stream Planning Corridors. A Stream Planning Corridor (SPC) is defined in Chapter 19, Section 19-210 as: the areas of land designated as a SPC in Exhibit 4-4 of the Storm Water Master Plan dated October 2009, along both sides of a stream or natural drainage corridor that encompasses the area projected to be inundated by the one-percent chance flood event (i.e., the one-hundred-year floodplain) in any given year assuming full build-out watershed conditions (based upon the Norman 2025 Plan and subsequent updates) in those areas with 40 or more acres of drainage area in the Lake Thunderbird watershed. Ms. Connors said these areas vary in width from 70 feet at the narrowest point to 2,900 feet at the widest point.

Ms. Connors said Chapter 19 also contains setback standards from the top of the bank in the Water Quality Protection Zone (WQPZ) areas for land uses or activities that pose a water pollution hazard to include storage of hazardous substances (300 feet) and above ground or underground petroleum storage facilities (300 feet). She said the draft ordinance has been amended to require drilling activities be set back 300 feet from the top of the bank or outside of the stream planning corridor, whichever distance is closer. A map depicting an example of how such an amendment might impact oil and gas activities was provided to Council and Ms. Connors said such an amendment will provide greater watershed protection.

Councilmember Miller said she is concerned about the water testing waiver. If an owner chooses to waive their right to have their water well tested, then how can it be assured that their well is not contaminated. She understands that domestic wells are not drilled into the Garber Wellington Aquifer; however, there is still a lot of water running and/or seeping through all of the rock, possibly endangering other water wells in the area. Mr. Bryant said the City Utilities Director explained to him that because of the separation between the Garber Wellington Aquifer and distance of private domestic water wells there is no danger in contaminating the public water supply. He said there is the possibility of contamination of other domestic water wells in the area; however, it would be difficult to enforce a City regulation on a private water supply. Councilmember Miller said she understands the issues but it would be nice to educate private/domestic water well owners of their responsibility. Councilmember Jungman said he is concerned about person(s) who waive their water tests and Mayor Rosenthal said the City cannot force citizens to test their domestic private water wells. She said water tests are an available tool if citizens choose to use it and possibly the City could draft a brochure outlining the benefits of having water wells tested.

Item 2, continued:

#### **Insurance**

Council requested additional insurance information, specifically the amount of increase in premium between a \$1 million pollution coverage policy and a \$5 million policy. Staff talked with an insurance provider that writes these types of policies and was advised that a \$1 million pollution policy coverage is pretty standard in the industry.

Ms. Connors said the insurance provider also advised that pollution coverage is designed to cover sudden and accidental claims when the date of the pollution event is known; however, it would not cover an ongoing leak that was not discovered for a significant period of time. As such, it would be very unlikely for a pollution coverage claim to exceed \$1 million.

Staff said the insurance provider advised that operators have to purchase pollution coverage for all wells that they operate at the same coverage level; therefore, if an operator had one well in the City of Norman and ten wells in neighboring jurisdictions, the pollution coverage would have to be purchased at \$5 million for all the wells (should the City of Norman adopt such an increase), resulting in a higher cost to the operators. It is estimated that an operator with a handful of wells might expect to pay \$1,000 to \$2,000 in premiums for a \$1 million pollution policy and \$5,000 to \$7,500 in premiums for a \$5 million pollution policy.

Councilmember Castleberry asked for clarification as to whether the pollution coverage policy would cover slow leaks and Staff said no, only sudden accidental claims would be covered under the pollution coverage policy. Councilmember Jungman asked who or which coverage would cover slow leaks and Staff said it would be covered under the operator's liability insurance coverage which is also a \$1 million policy.

Councilmember Jungman said a pollution policy does not cover an incident when a proactive leak is not initially discovered but rather occurs over time; however, nonetheless, the incident pollutes the lake and Staff said that is correct. Councilmember Jungman said that seems strange to him and Staff said this is the information gathered by the insurance agent, stating the agent said pollution insurance is a very specific type of coverage. Mr. Bryant said most general liability policies include seepage coverage; therefore, leaks/spills over time are typically covered under liability policies. He said catastrophic (pollution) events are covered under the pollution policy.

Councilmember Castleberry asked how many well leaks have occurred in the City of Norman to date and Staff said none. Councilmember Jungman raised concerns regarding insurance coverage and Mayor Rosenthal felt there was a need to clarify general liability coverage(s). She said there is no reference to general liability insurance in our current ordinance and the language used seems to imply a policy or policies covering seepage or pollution in an amount not less than \$1 million for each occurrence.

Councilmember Miller asked Staff how the \$125,000 bodily injury amount per person, per accident, came about and Mr. Bryant said that is the cap under the governmental Tort Claims Act for City liability. Councilmember Jungman understands it would cost oil and gas well operations more for a \$5 million policy and he does not want the higher amount to be paid if it is not needed. He felt if a well is put out of business due to paying \$200 dollars per month for insurance then probably the well was imposing greater costs on the community with the risk than with the benefit. Mr. Bryant said it may be helpful for Staff to bring in an insurance agent to address Council's questions regarding general liability coverage policies versus pollution coverage policies if Council so desired.

#### **Gathered Feedback**

##### From Oil and Gas Operators

Baron Exploration and Edinger Engineering, both local operators, sent letters expressing their concerns and Staff recommends the following:

1. Only require testing of Oklahoma Water Resource Board (OWRB) permitted water wells;
2. Clarify intent of the ordinance is to be prospective; and
3. Tracer wire is only required for non-steel lines.

##### From Interested Citizens

Staff met with members of Central Oklahoma Clean Water Coalition (COCWC) on January 29, 2015, and Staff recommends the following:

1. Change punctuation in Section 13-1501 for consistency;
2. Add language regarding minimizing light spillover, noise, dust, and odors; and
3. Amending Section 13-1508 (Fencing) to measure from "well bore" instead of "well site".



Item 2, continued:

Councilmember Jungman asked Staff to clarify fencing requirements and Ms. Leah Messner, Assistant City Attorney, said the fencing measurement would begin at the well bore and the well bore cannot be located less than 600 feet from a house or dwelling. Councilmember Jungman asked if a tank battery could be closer than 600 feet and Ms. Messner said no, the ordinance also requires the tank battery to be no less than 600 feet from a house or dwelling.

Additional Staff Comments

Sections 13-1505 and 13-1502 are proposed to be amended to ensure regulations remain in the ordinance for existing well sites or for wells being drilled during a 30 day window between adoption of ordinance and the effective date. The amendment relates to earthen pits and berms. The Oil and Gas Inspector will conduct two (2) official inspections per year and the inspection form will be posted on the City of Norman website.

Councilmember Jungman asked whether earthen pits will or will not be allowed going forward and Ms. Connors said if Council adopts the proposed ordinance, earthen pits will not be allowed going forward, except for the existing well sites and for wells being drilled during the 30 day window between adoption and effective date.

**Status of Proposed State Legislation**

Currently there are eight (8) bills that have been introduced at the State Legislature regarding municipal authority to regulate oil and gas activities. Two of the bills that seem to be receiving the most attention and are more likely to move forward towards adoption and are fairly similar in that both propose to preempt municipalities from prohibiting or banning the drilling, completing, fracture stimulating or operation of oil and gas wells or water disposal wells.

- Senate Bill (SB) 809 by President Pro Tem Bingman provides for the Corporation Commission to review and decide whether city ordinances are consistent with Corporation Commission rules.
- House Bill (HB) 2178 by House Speaker Hickman provides for an appeal to District Court.

At request of the Oklahoma Municipal League (OML), the City Attorney's Office prepared some comments regarding these two proposed bills.

Senate Bill 809

First, SB 809 allows municipalities to enact ordinances relating to the local aspects of oil and gas operations. It also states that municipalities cannot ban oil and gas operations but can enact reasonable setbacks. These two sections appear to be in conflict with each other – "ordinances relating to the local aspects of oil and gas operations" might include noise, health and safety, or zoning related restrictions on drilling, not merely setbacks. The City is considering ordinances regarding surface operations, fencing, water testing, and drilling in watershed areas that the City believes are all important health and safety concerns and an important reason why cities should retain local control over these issues.

Second, SB 809 incorporates a legal standard that appears to allow less stringent review of actions of legislative bodies. If a legislative decision by a municipality has a substantial relationship to the public health, safety, morals, or general welfare, and does not constitute an unreasonable, arbitrary exercise of police power, the municipality's legislative judgment will not be overridden by the district court. *Sand Springs Materials, LLC v. City of Sand Springs*, 243 P. 3d 768 (Okla. Civ. App. 2010). If the proposed state legislation moves toward adoption, the City Attorney's Office recommends that review of municipal ordinances regulating oil and gas operations be subject to review under well-established legal standards.

Third, SB 809 gives the Oklahoma Corporation Commission (OCC) the authority to determine whether a municipal ordinance is reasonable and consistent with OCC regulations. The City Attorney's Office has some concerns with that provision. As a new practice or procedure, there would not be a developed body of laws available to guide the parties. Such a new procedure would create uncertainty and unpredictability on how such matters might be resolved as opposed to a District Court appeal. The City Attorney's Office has recommended that the District Court remain the avenue for appeals of City ordinances in this area using the standard of "fairly debatable" mentioned above. It is recommended that the language regarding review of City legislature acts by the OCC be removed from the legislation.

HB 2178 specifically prohibits municipalities from regulating "exploration, drilling, fracture stimulation, completion, production, maintenance, plugging and abandonment, produced water disposal, or secondary recovery operations". The proposed ordinance amendments that the Norman City Council is considering do not seek to ban oil and gas operations within the City limits. Rather, Council is seeking to implement ordinances that require health, safety and environmental protections. The City Attorney's Office recommends that the Legislature consider a bill that would continue to allow municipalities to regulate how and where oil and gas drilling may occur within the City of Norman so long as those regulations pertain to matters of local concern and are not inconsistent with OCC rules and regulations.

Item 2, continued:

The amendments for SB 809 and HB 2178 proposed by the City Attorney's Office have been developed with cooperation and input from Mr. Terry Stowers, a local oil and gas attorney who primarily represents land owners and mineral owners. City Attorneys for Stillwater and Oklahoma Municipal League (OML) representatives have also reviewed and support the language. The City Attorney for Stillwater has added two (2) provisions to include 1) notice of new wells from OCC and, 2) authority to regulate local aspects of drilling activities up to one-fourth mile outside municipal limits. The OML Board will formally consider amendments at their March, 2015 meeting.

Mr. Bryant said Staff is working with lobbyists who are working with legislators who offered the bills, as well as other cities and OML. He said one of the big issues is related to setbacks and the legislature would like unified setbacks state-wide. He is concerned if cities do not work with the oil and gas industry, the cities could end up with a pre-emption bill. Mr. Bryant said he hopes Norman can be used as an example to legislature showing how the oil and gas industry and local communities can work together to create regulations and allow the ability for local control that would further justify passing this type of bill.

Mayor Rosenthal said the approach and work to date has been to listen to all concerns and reach the right balance with respect to responsible regulations that also recognize the industry concerns as well as community concerns which have primarily focused on water quality issues. She felt the more appropriate approach is to continue to show that local control is important because municipalities have studied the issues and can make responsible, informed decisions.

Councilmember Miller asked whether Council should table the proposed oil and gas ordinance discussions until after the State legislature process is over. Mr. Bryant said there is Council consensus on most of the issues discussed tonight. He said if Council adopted the draft ordinance with the proposed setbacks as is, and State legislature passes a pre-empted bill, Council will have to come back and do an ordinance amendment to mirror state regulations. He said another possibility to consider is that it might be offensive to some if Council adopts the draft ordinance without waiting to see what the State does first. Mayor Rosenthal felt since Council has requested more work from Staff on insurance and once information is received from Staff, Council can continue the oil and gas ordinance discussions and see where the State legislature deliberations are at that time. Councilmember Castleberry and Miller agreed with Mayor Rosenthal's approach and time table.

Councilmember Miller respects the time and research that Staff has taken on this issue as well as the time that the Mayor has taken to work with OML. She said the City can currently protect our water supply; however, she is concerned that at some point future build-outs will impact more and more people as well as Norman's water supply more so than build-outs have in the past. Councilmember Miller said a recent article in the newspaper said the Southwest is predicted to be in a 20 year drought and water will be a huge issue. She said she is all for working with the Legislature, but Norman needs to figure out way(s) to protect our City. Mayor Rosenthal agreed and felt it is very important for constituents to be in communication with their State legislature.

Councilmember Jungman said he would like Council to consider adopting a resolution similar to the resolution adopting the recent legislation on election issues. He stated he is not against fracking and a resolution may reflect that the City is not against fracking, but that this issue is a health and safety issue and better controlled at the local level. Mr. Bryant said he is hesitant to a resolution approach until he touches base with OML and lobbyist groups. He said it can be a very delicate matter when trying to get the eight (8) bills that have been introduced at the State Legislature dropped so that the focus is mainly on two (2) manageable bills as they relate to municipal issues, which is the ultimate goal.

Councilmember Holman asked whether the City of Stillwater is planning to slow down or move ahead full steam and Mayor Rosenthal said Stillwater cancelled their meeting the night before and rescheduled it for some time in March, 2015, because of proposed draft language recommended by their Planning Commission that their Council would not support. She felt Stillwater will slow down the process and also rethink some of the draft proposals.

Councilmember Holman said he is concerned about delaying the fencing regulations because he had a constituent bring fencing issues to him nearly two (2) years ago and if adopted, the well operator will have an additional one (1) year from the effective date to come into compliance. He asked Staff if the legislature had issues with the fencing requirements and Mr. Bryant said not so much the fencing itself, but who would build and/or maintain the fencing.



Item 2, continued:

Items submitted for the record

1. Memorandum dated February 13, 2015, from Susan Connors, Director of Planning and Community Development, and Leah Messner, Assistant City Attorney, to Honorable Mayor and Councilmembers
2. Legislatively notated draft Ordinance amending Article XV, Sections 13-1501 through 13-1523 of Chapter 13 of the Code of the City of Norman
3. State of Oklahoma, 1st Session of the 55<sup>th</sup> Legislature (2015), Senate Bill 809 by: President Pro Tem Bingman, dated January 22, 2015
4. House of Representatives – Floor Version, State of Oklahoma, 1st Session of the 55<sup>th</sup> Legislature (2015), House Bill 2178 by: House Speaker Hickman, dated February 10, 2015
5. City of Norman Revisions following discussions with Terry Stowers, Senate Bill 809 by: Bingman, dated February 6, 2015
6. City of Norman Revisions following discussions with Terry Stowers, House Bill 2178 by: Hickman, dated February 6, 2015
7. Map of the City of Norman, Stream Planning Corridor & Stream Buffer Corridor
8. PowerPoint presentation entitled, "Proposed Amendments to Oil and Gas Ordinance," Norman City Council, dated February 17, 2015

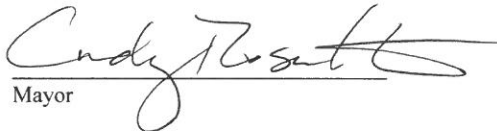
ADJOURNMENT

The meeting adjourned at 6:47 p.m.

ATTEST:

  
\_\_\_\_\_  
City Clerk



  
\_\_\_\_\_  
Mayor



# Office memorandum

**To:** Honorable Mayor and City Councilmembers

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

**Date:** February 13, 2015

**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
6. Storage of chemicals in original containers
7. Water diversion during the drilling process

To: City Council  
Re: Oil and Gas Ordinance Amendments  
Date: February 13, 2015

## 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. 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 has reviewed that Memorandum and provided a confidential memorandum to Council on that subject.

The Oversight Committee met again on November 13, 2014. At that meeting, the Committee discussed the proposed changes to the draft Ordinance and asked Staff to gather some additional information and make some changes to the proposed Ordinance. The Committee's requests were primarily focused in five areas: fencing; water testing; water quality protection zones; waivers; and insurance requirements.

The Oversight Committee met again on December 18, 2014 to discuss those requested changes. At that meeting, the Committee recommended moving the attached draft forward to a Study Session on January 20, 2015.

On January 20, 2015, City Council held a Study Session to discuss the proposed ordinance amendments. The Council seemed generally satisfied with the Oversight Committee work but had questions in the following areas: waivers, insurance, and water protection. In addition to these items, this Memo will address proposed amendments submitted by Baron Exploration and by several interested citizen groups. It will also provide an update regarding proposed legislation at the State level on this topic.

## **DISCUSSION:**

### **Waivers**

The Council requested additional information in order to consider Finley Resources' request to allow one waiver to cover multiple well bores on the same pad site within six hundred feet of a dwelling or business structure.

One city researched, Ft. Worth, Texas, requires waivers from neighboring property owners similar to the language currently in the City of Norman's ordinance. However, the Ft. Worth ordinance also requires the waivers to be filed, at the expense of the operator, in the county property records. Amending the City of Norman's ordinance to include this requirement would put successive owners of property within six hundred feet of an oil well on notice that there is an oil well nearby whose location has been agreed to by a previous owner.

At the December Oversight Committee meeting and the January Council Study Session, Staff recommended the following language if the Council wanted to consider amending Section 13-1509(b) of the Ordinance to accommodate Mr. Behrens' request:

To: City Council  
Re: Oil and Gas Ordinance Amendments  
Date: February 13, 2015

No such oil or gas well shall be drilled within six hundred (600) feet of any dwelling, business structure, church or school, unless waived by the landowner, or within three hundred (300) feet of any producing freshwater well. Such a waiver, if received, shall be written, notarized, and identify the property address. The operator must file the waiver in the Office of the Cleveland County Clerk and produce evidence of such filing prior to the issuance of a permit. Subsequent waivers are not required if an operator requests, and receives, a permit to drill additional well bores on the currently permitted ten acre site as identified in the original permit application.

This amendment addresses the request made by Finley Resources, and it also streamlines the Ordinance by combining Sections 1509(b) and (c). However, the Council asked several additional questions at the January Study Session. First, Council asked if Oklahoma City uses a waiver process. Chapter 37, Section 37-81 of the Oklahoma City Code of Ordinances reads as follows:

- (a) No well shall be drilled nor shall any tank batteries, well facilities or equipment be located and no permit shall be issued for any well to be drilled at any location which is nearer than 300 feet to any occupied or unoccupied dwelling or any other building used or designed and intended to be used for human occupancy unless the applicant has obtained written permission for the location of the well from all owners and lessees whose dwellings or other subject buildings are within 300 feet of the proposed well. This distance shall be calculated from the well bore, tank batteries, well facilities and equipment to the closest exterior point of the dwelling or other subject building.
- (b) No well shall be drilled nor shall any tank batteries, well facilities or equipment be located and no permit shall be issued for any well to be drilled at any location which is nearer than 600 feet to any public building, religious building or school building unless the applicant has obtained written permission for the location of the well from the owners and lessees of such public building, religious building or school building. This distance shall be calculated from the well bore, tank batteries, well facilities and equipment to the closest exterior point of the building.

Staff spoke with one of the Oklahoma City Oil and Gas Inspectors. When a well is permitted in Oklahoma City, if multiple well bores are requested on the application, the waiver, if granted, covers all the well bores requested. However, if additional well bores at the same site are requested after the initial application is approved, a new waiver is required. Therefore, Oklahoma City's waiver provisions allow oil wells to be located within three hundred feet of a



To: City Council  
Re: Oil and Gas Ordinance Amendments  
Date: February 13, 2015

structure. This is very similar to the language currently in the City of Norman ordinance except that the wells are allowed closer to structures in Oklahoma City than in Norman.

Second, the Council asked for information about including a sunset provision to the proposed waiver language. A sunset provision is typically a measure in a law that provides that the law will cease to have effect after a certain date unless legislative action is taken to renew the law. While there is a lot of case law regarding sunset provisions generally, Staff did not find anything specific regarding sunset provisions on oil and gas location waivers. However, in *Hyde Park Co. v. Santa Fe City Council*, the 10<sup>th</sup> Circuit Court of Appeals reviewed whether the Hyde Park Company was entitled to Council approval of a final plat when that plat met all the requirements of the Santa Fe City Code. 226 F.3d 1207 (10th Cir. 2000). The 10<sup>th</sup> Circuit explained property rights in this way:

The Supreme Court defines “property” in the context of the Fourteenth Amendment’s Due Process Clause as a “legitimate claim of entitlement” to some benefit. *Board of Regents v. Roth*, 408 U.S. 564, 577, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972). An abstract need for, or unilateral expectation of, a benefit does not constitute “property.” *Id.* Due Process is not an end in itself. Rather, the constitutional purpose of Due Process “is to protect a substantive interest to which ... [a party] has a legitimate claim of entitlement.” *Olim v. Wakinekona*, 461 U.S. 238, 250, 103 S.Ct. 1741, 75 L.Ed.2d 813 (1983). Property interests “are created and their dimensions are defined by existing rules and understandings that stem from an independent source such as state law-rules or understandings that secure certain benefits and that support claims of entitlement to those benefits.” *Id.*

Thus, were the City of Norman to enact a sunset provision on the waiver process, an oil and gas operator, who received a waiver prior to the sunset provision taking effect, could argue that the City of Norman had granted a property right (i.e. allowed the company to pay for and negotiate a waiver) and then required the operator to cease operations conducted under the waiver when the waiver provision sunsetted. Considering this line of legal analysis regarding abridgment of property rights, the City Attorney’s Office does not recommend that Council implement a sunset provision on existing waivers. As to waivers that could be granted in the future by property owners desiring to allow extraction of minerals underneath their property, it would be important to clearly identify the legitimate governmental purpose to be achieved by such a restriction of the ability of private property owners to alienate, transfer, or otherwise manage their property rights associated with these particular parcels. While the most defensible rationale for municipal regulation is health, safety, and welfare of citizens or the general public, a restriction on a property owners right to waive ordinance protections Council may believe would result in a devaluation of these particular parcels outside of a zoning context may be difficult to defend.

### **Stream Planning Corridors**

To: City Council  
Re: Oil and Gas Ordinance Amendments  
Date: February 13, 2015

At the January 20, 2015 Study Session, several comments were made regarding the proposal to prohibit drilling within the mapped Stream Planning Corridors. A Stream Planning Corridor is defined in Chapter 19, Section 19-210(PP) as: The areas of land designated as a SPC in Exhibit 4-4 to the PBS&J Storm Water Master Plan dated October 2009, along both sides of a stream or natural drainage corridor that encompasses the area projected to be inundated by the one-percent chance flood event (i.e., the one-hundred-year floodplain) in any given year assuming full build-out watershed conditions (based upon the Norman 2025 Plan and subsequent updates) in those areas with 40 or more acres of drainage area in the Lake Thunderbird watershed. These areas vary in width from seventy feet at the narrowest point to 2,900 feet at the widest point.

In addition to this definition, Chapter 19, Section 19-411 contains setback standards from the top of the bank in Water Quality Protection Zone areas for land uses or activities that pose a potential water pollution hazard. This includes: storage of hazardous substances (300 feet), aboveground or underground petroleum storage facilities (300 feet), septic systems (200 feet), land application of biosolids (200 feet), solid waste landfills (600 feet), subsurface discharges from a wastewater treatment plant (200 feet), and raised septic systems (500 feet).

Taking the most similar activities (storage of hazardous materials and aboveground petroleum storage facilities) into consideration along with the variation in width of the stream planning corridors, Staff offers another option for Council to consider. The proposed oil and gas ordinance could be amended to prohibit oil and gas operations in the stream planning corridors or within three hundred feet from the top of the bank whichever is greater. This amendment is marked in yellow at Section 13-1509(a)(4). A map is attached that provide an example of how such an amendment might impact oil and gas activities. Because of the variation in width of stream planning corridors, such an amendment will provide greater watershed protection. Such an amendment will prohibit drilling in a larger land area than a ban on oil and gas activities in the stream planning corridors alone. Should an owner or operator desire to access minerals under stream planning corridors then horizontal drilling techniques could be utilized.

### **Insurance**

Council asked for additional insurance information – specifically the amount of increase in premium between a \$1 million pollution coverage policy and a \$5 million pollution coverage policy. Staff spoke with an insurance provider located in Lindsay, Oklahoma that writes these type of policies. He advised that \$1 million in pollution liability coverage is pretty standard in the industry. He also advised that pollution coverage is designed to cover sudden and accidental claims when the date of the pollution event is known. It would not cover an ongoing leak that was not discovered for a significant period of time. As such, he said it would be very unlikely for pollution coverage claim to exceed \$1 million.

He advised that the operators have to purchase pollution coverage for all wells that they operate at the same coverage level. Therefore, if an operator had one well in the City of Norman and ten wells in neighboring jurisdictions, the pollution coverage would have to be purchased at \$5 million (if the City adopted such an increase) for all the wells resulting in a higher cost to the operators.



To: City Council  
Re: Oil and Gas Ordinance Amendments  
Date: February 13, 2015

As far as a cost estimate, he estimates that an operator with a handful of wells might expect to pay \$1,000 to \$2,000 in premiums for a \$1 million pollution policy. A \$5 million pollution policy cost for the same operator is estimated to be a 55% to 100% increase per \$1 million coverage. For example, the cost for \$5 million in coverage would be in the range of \$5,000 to \$7,500 in premium costs for that operator with a handful of wells.

### **Status of Proposed State Legislation**

There are currently eight bills that have been introduced at the State Legislature regarding municipal authority to regulate oil and gas activities. Mayor Rosenthal, Councilmember Miller, and members of the City Attorney's Office have attended two meetings with the Oklahoma Municipal League (OML) and representatives of the oil and gas industry regarding the proposed bills. Two of the bills seem to be receiving the most attention and are more likely to move forward toward adoption. Those bills are Senate Bill 809 by President Pro Tempore Bingman and House Bill 2178 by House Speaker Hickman. Carolyn Stagers, Executive Director of OML, and Missy Dean, Director of Governmental Relations/Membership Services at OML, advise that it is extremely likely that some version of one of these bills will be adopted this Session. These two bills are fairly similar. They both propose to preempt municipalities from prohibiting or banning the drilling, completing, fracture stimulating or operation of oil and gas wells or water disposal wells. SB 809 provides for the Corporation Commission to review and decide whether city ordinances are consistent with Corporation Commission rules. HB 2178, on the other hand, provides for an appeal to District Court. The language of the two bills is attached to this Memo.

At the request of the OML, the City Attorney's Office prepared some comments regarding these two proposed bills. First, SB 809 allows municipalities to enact ordinances relating to the local aspects of oil and gas operations. It also states that municipalities cannot ban oil and gas operations but can enact reasonable setbacks. These two sections appear to be conflict with each other – "ordinances relating to the local aspects of oil and gas operations" might include noise, health and safety, or zoning related restrictions on drilling not merely setbacks. The City of Norman is considering ordinances regarding surface operations, fencing, water testing, and drilling in watershed areas that the City believes are all important health and safety concerns and an important reason why cities should retain local control over these issues.

Second, SB 809 incorporates a legal standard that appears to allow less stringent review of actions of legislative bodies. If a legislative decision by a municipality has a substantial relationship to the public health, safety, morals, or general welfare, and does not constitute an unreasonable, arbitrary exercise of police power, the municipality's legislative judgment will not be overridden by the district court. *Sand Springs Materials, LLC v. City of Sand Springs*, 243 P.3d 768 (Okla. Civ. App. 2010). If the proposed state legislation moves toward adoption, the City Attorney's Office recommends that review of municipal ordinances regulating oil and gas operations be subject to review under well-established legal standards.

Third, SB 809 gives the Oklahoma Corporation Commission the authority to determine whether a municipal ordinance is reasonable and consistent with OCC regulations. The City Attorney's

To: City Council  
Re: Oil and Gas Ordinance Amendments  
Date: February 13, 2015

Office has some concerns with that provision. As a new practice or procedure, there would not be available a developed body of laws to guide the parties. Such a new procedure would create uncertainty and unpredictability on how such matters might be resolved as opposed to a District Court appeal. The City Attorney's Office has recommended that the District Court remain the avenue for appeals of City ordinances in this area using the standard of "fairly debatable" mentioned above. It is recommended that the language regarding review of City legislative acts by the OCC be removed from the legislation.

Turning to HB 2178, the City Attorney's Office has the same concerns with the language of this bill that allows municipality to enact "reasonable ordinances concerning road use, traffic, noise, and odors incidental to oil and gas operations" as with SB 809. The City of Norman is considering ordinances regarding surface operations, fencing, water testing, and drilling in watershed areas that the City Council believes are all important health and safety concerns and an important reason why cities should retain local control over these issues.

HB 2178 specifically prohibits municipalities from regulating "exploration, drilling, fracture stimulation, completion, production, maintenance, plugging and abandonment, produced water disposal, or secondary recovery operations". The proposed ordinance amendments that the Norman City Council is considering do not seek to ban oil and gas operations within the City limits. Rather, they seek to implement ordinances that require health and safety and environmental protections. The City Attorney's Office recommends that the Legislature consider a bill that would continue to allow municipalities to regulate how and where oil and gas drilling may occur within the City of Norman so long as those regulations pertain to matters of local concern and are not inconsistent with OCC rules and regulations.

Subsequent to meeting with the Oklahoma Municipal League and representatives of the oil and gas industry, Leah Messner and Jeff Bryant with the City Attorney's Office met with Mr. Terry Stowers on February 6, 2015. Mr. Stowers is a local oil and gas attorney that primarily represents land owners and mineral owners. He indicated that he had drafted the proposed language in SB 809. The meeting with Mr. Stowers was very cordial and cooperative. Staff raised the above concerns with him and provided him with some proposed alternative language that ensures that cities will continue to be able to regulate local aspects of oil and gas operations. Specifically, it proposes to allow municipalities to enact "ordinances, rules, and regulations relating to the local aspects of the oil and gas operations which include, but are not limited to, road use, traffic, noise, odors, setbacks, fencing, and protection of water resources within its boundaries, provided such ordinances, rules, and regulations are not inconsistent with, and not in opposition to, the purposes of the regulation established by this title and the Corporation Commission."

The language that Mr. Stowers and City Staff developed is attached in an annotated format from SB 809 and HB 2178 as proposed. This language has also been favorably received by the City Attorney for Stillwater and OML representatives. A meeting to discuss this language with a municipal working group is scheduled at OML on Monday, February 16. The goal is arrive at language that can be presented to the OML Board for consideration of whether to formally offer these amendments to the Legislature from the OML organization.



### **Feedback from Interested Citizens and Oil and Gas Operators**

The City Manager received a letter, dated January 13, 2015, from Jack Dake, the Land Manager for the Baron Exploration Company. In the letter, Mr. Dake expresses several concerns regarding the proposed municipal regulations on water testing. First, he requests that the City limit the water testing requirements to not more than three water wells within a quarter mile of the subject oil and gas well. He also requests that the City limit the water testing requirements to only those wells that are registered with the Oklahoma Water Resources Board (OWRB). He also requests that the City consider limiting testing for methane as it is more costly to test for and not very commonly occurring in Oklahoma. Finally, he requests that the City consider allowing drilling in the stream planning corridors so long as the drilling location is a minimum of one foot above the base flood elevation.

Of these requests, City Staff recommends that Council consider Mr. Dake's suggestion of only requiring testing of OWRB permitted water wells. Without a permit on file, it will be difficult for oil and gas operators to have knowledge of or locate other private water wells that may be located on neighboring parcels from the well site property or leased surface location. Staff has made that amendment to the attached ordinance draft for Council consideration and discussion. As to the suggestion limiting the number of water wells to be tested within the quarter mile testing radius, Staff has concerns that it will provide some water well owners with a baseline test result and not others even though the wells are both in the same test radius. Staff would not advise effectively "picking and choosing" which wells to test. As to suggestion regarding methane testing, City staff consulted Dr. Puls when developing the list of chemicals to be tested for. For that reason, City Staff continues to recommend the proposed list of chemicals. In regards to drilling within the stream planning corridors, the current City floodplain regulations require oil well sites to be built two feet above the base flood elevation. Therefore this suggestion would decrease the current standard and is contrary to the current proposed ordinance prohibiting oil and gas activity in the stream planning corridors.

In addition to the letter from Mr. Dake, Steve Ramsey, with Edinger Engineering, submitted a letter with questions regarding the proposed ordinance amendments. His primary concern is whether the proposed regulations are prospective, i.e. only applying to new oil wells drilled after adoption of the revised ordinance. Staff has spoken with Mr. Ramsey explaining that the intent is to be prospective; however, Staff has made a few amendments to the draft ordinance to clarify that intent in writing. That draft language is attached for Council's review and consideration, and the clarifications regarding the requirements being prospective are marked in yellow. The sections that Staff felt were appropriate to amend in this way are Sections 13-1508(d) [Premises Maintained], 13-1512(a) [Storage Tanks], and 13-1514(b) [Disposal/Injection Wells]. Staff made one more additional change in response to Mr. Ramsey. Section 13-1508(d) has been amended to clarify that tracer wire is only required in non-steel lines.

Staff has also reviewed the materials provided by the Central Oklahoma Clean Water Coalition (COCWC). Staff met with members of that group on January 29, 2015 to discuss their proposed changes to the ordinance. The changes made as a response to their suggestions are marked in

yellow on the attached draft. First, the punctuation in Section 13-1501 has all been changed to periods for consistency. Second, the COCWC proposed a new section on language requiring the conduct of oil and gas operations to occur in such a way as to minimize light spillover, noise, dust, and odors. Staff has incorporated language similar to what was suggested into Section 13-1507 as a new section (d). Third, the COCWC raised concerns regarding how setbacks are measured. For that reason, Staff proposes amending Section 13-1508 to specify that measurements are to be made from the 'well bore' instead of from the 'well site'. Well sites, as discussed earlier, may include a broader area that is not consistent in size from operator to operator and site to site. Measuring from the well bore itself provides a more consistent setback measurement.

As to the other changes suggested by the COCWC, Staff does not recommend their inclusion. Generally, these changes act to effectively prohibit oil and gas operations anywhere in the Norman City limits. An ordinance with such an effect, particularly while the Oklahoma Legislature is actively considering preemption bills, could potentially encourage oil and gas operators to petition the Legislature for stronger preemption language than is currently being considered.

As an example of the language proposed by the COCWC, that acts to effectively ban oil and gas operations, is their suggestion to prohibit drilling on property zoned A-1 or A-2 and in areas identified by the Norman 2025 Land Use and Transportation Plan as 'Future Urban Service Area'. These areas are primarily where drilling is occurring as these areas are the most rural and most sparsely populated areas in the City of Norman. If this language was added to the proposed ordinance, there would be nowhere that drilling is allowed because new drilling is already prohibited on platted property.

In addition, prohibiting drilling within 1,000 feet of a building, as suggested by the COCWC, is limiting in regards to placement of drilling operations. Currently, the City does not allow drilling within six hundred of a business or dwelling (i.e. a habitable structure). This six hundred foot setback is twice what is required by Oklahoma City and the Oklahoma Corporation Commission. To require a setback of 1,000 feet from buildings like hay barns, sheds, and carports is likely to create additional friction at the state level.

#### **Additional Staff Comments**

Staff has made two additional changes to the draft ordinance. In Section 13-1505, in order to adequately address any issues that might arise in regulation of the drilling process due to the thirty day window between adoption of the proposed amendments and their effective date, Staff proposes the language as highlighted in yellow on the draft ordinance. The proposed language allows an operator, who receives a permit in that thirty day window, to drill with earthen pits. However, if the drilling process is not completed within thirty days, the drilling operation must be converted to a closed loop system. In addition, additional information has been added to Section 13-1505(a) that defines a closed loop system.

To: City Council  
Re: Oil and Gas Ordinance Amendments  
Date: February 13, 2015

The second is similar. It is in Section 13-1512, Storage Tanks. Because earthen embankments will continue to exist on wells that predate these amendments, the amendments leave the standards for construction and maintenance of the embankments in the Code but requires steel or concrete containment walls around all tanks installed after the effective date of the Ordinance.

Also, the Oil and Gas Inspector will be conducting two official, recorded inspections per year for each well site within the City of Norman. These inspections shall be recorded on an inspection form which will be posted to the City of Norman website.

**RECOMMENDATION:**

The above information, along with the attached draft Ordinance, is provided for the Council's information and discussion at the February 17, 2015 City Council Study Session. Staff will be available for questions, comments and general direction regarding alternative language being considered for SB 809 and HB 2178 at that time.

Attachments: Draft Ordinance  
Map  
SB 809 and HB 2178  
Draft Modifications to SB 809 and HB 2178



AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING ARTICLE XV, SECTIONS 13-1501 THROUGH 13-1519 AND SECTION 13-1522 OF CHAPTER 13 OF THE CODE OF THE CITY OF NORMAN BY ADDING PROVISIONS TO IMPROVE SAFETY AND PROVIDE BETTER ENVIRONMENTAL STANDARDS AND CONTROLS TO OIL, GAS AND MINERAL PRODUCTION SITES; AND PROVIDING FOR THE SEVERABILITY THEREOF.

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

§ 1. That Article XV, Section 13-1501 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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, to reopen a plugged and abandoned well, 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. ~~and~~
  - (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, A~~ 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 pit site, ~~including or~~ a copy of the Oklahoma Corporation Commission 'land application' permit for the disposal site and a contract with the owner of the permitted site for the disposal of said deleterious substances. Before commencing drilling operations, this plan must 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);~~
- ~~(4) — 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;~~
- ~~(5) — Operation name for each well;~~
- ~~(6) — One (1) copy of all cement bond logs and production logs;~~
- ~~(7) — 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.

- § 2. That Article XV, Section 13-1502 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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~~ 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 or 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.

§ 3. That Article XV, Section 13-1502.1 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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 twenty-five thousand 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 ADVANCE 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 ADVANCE 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.

- § 4. That Article XV, Section 13-1503 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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.

- § 5. That Article XV, Section 13-1504 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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 two hundred ~~(1,000)~~ (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 fillup about 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 five hundred (~~1,000~~ 1,500) 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.

§ 6. That Article XV, Section 13-1505 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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 fluids used or produced as a part of the drilling or completion of a well must be contained in a closed loop system. A closed loop system is a system where all drilling fluids are contained within piping tanks and pumps. All circulating mud pits utilized shall be exclusively of metal construction.
- (b) For drilling operations initiated prior to the effective date of this Ordinance O-1415- , earthen pits shall be allowed in areas outside the Lake Thunderbird basin or Garber Wellington Aquifer recharge area. 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. All earthen circulation pits will be vinyl lined, and the contents of such pits will be hauled to a disposal facility. However, if such a well is not completed within thirty (30) days of the effective date of this Ordinance O-1415- , a closed loop system as set out in Section (a) above shall thereafter be required.

§ 7. That Article XV, Section 13-1506 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:



**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.~~

§ 8. That Article XV, Section 13-1507 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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.~~
- (d) All drilling and production operations shall be conducted in such a manner as to eliminate, as far as possible, light spillover, dust, noise, vibration, or noxious odors, and shall be in accordance with the best available technology for drilling or production of oil and gas.

§ 9. That Article XV, Section 13-1507 of Chapter 13 of the Code 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 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 when the well bore is located within six hundred (600) feet of any dwelling or business structure or is closer than six hundred (600) feet from the centerline of a public roadway shall enclose such well, ~~together with~~ and its tank batteries; by a heavy commercial grade chain-link fence at least six (6) feet high with posts set in concrete ~~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. The bottom of the chain-link fence shall have a #9 gauge tension wire running the length of the fence. The maximum opening between the ground and the fence shall be four (4) inches. The fence may be constructed with removable front and side sections built of the same material as the permanent fence. Wells 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 the effective date of this Ordinance O-1415- shall be in compliance with all fencing requirements of this section within one (1) year of the effective date of this Ordinance O-1415- unless the well site is located outside the Current Urban Service Area as designated on the Norman 2025 Land Use and Transportation Plan or any subsequently adopted Plans and the fencing requirement is waived in writing by all property owners within six hundred (600) feet of the well bore.
4. If a dwelling or business structure is constructed within six hundred (600) feet of an existing well bore or tank batteries 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 unless the well site is located outside the Current Urban Service Area as designated on the Norman 2025 Land Use and Transportation Plan or any subsequently adopted Plans and the fencing requirement is waived in writing by all property owners within six hundred (600) feet of the well bore. 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.

5. If a property where an oil well is located changes designation to Current Urban Service Area, the well operator must fence according to the requirements of this section any existing well or tank batteries, not previously subject to fencing requirements prior to said change of designation within sixty (60) days of written notification by the moving party behind the change in designation.

- (d) All lines installed after of the effective date of this Ordinance O-1415- that leave the premises (drilling pad), whether oil or gas, shall be buried with tracer wire (if non-steel line) 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.

§ 10. That Article XV, Section 13-1509 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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.~~ Designated as a 'Stream Planning Corridor' as defined in Chapter 19, Section 19-210(PP) or within three hundred (300) feet from the top of bank as defined in Chapter 19, Section 19-210(DDD) whichever distance is greater.
  - (5) 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, church, or school unless waived by the landowner, or within three hundred (300) feet of any producing freshwater well. Such a waiver, if received, shall be written, notarized, and identify the property address. The operator must file the waiver in the Office of the Cleveland County Clerk and produce evidence of such filing prior to the issuance of a permit. Subsequent waivers are not required if an operator requests, and receives, a permit to drill additional well bores on the currently permitted ten acre site as identified in the original permit application.
- (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 non-exclusive list of items 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~~ Designating routes and prohibiting ~~traffic~~ access to the well site through residential areas.

§ 11. That Article XV, Section 13-1510 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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 any new oil or gas well shall be tested for the presence of deleterious substances. One test shall occur prior to drilling and one test shall occur every other year after completion for five years for a total of three tests post-completion of the well. The substances to be tested for are: bromide, chloride, total dissolved solids, methane, iron, manganese, arsenic, boron, and lithium. Such testing is the responsibility of the permittee and, at the permittee's expense, to be conducted by a person or company 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. The Oil and Gas Inspector and the water well owner 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.~~

§ 12. That Article XV, Section 13-1511 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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.~~

§ 13. That Article XV, Section 13-1512 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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, constructed around them, of sufficient size and height to be able to adequately contain one and one-half (1½) times the volume of such tanks should a rupture occur at the floor of such tanks. Storage tanks or other types of tanks noted above that are installed after the effective date of Ordinance O-1415- shall have steel or concrete containment walls rather than earthen embankments. 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 containment walls ~~of or~~ dikes 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.~~

§ 14. That Article XV, Section 13-1513 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:



**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.

§ 15. That Article XV, Section 13-1514 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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 installed after the effective date of Ordinance O-1415- 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 all lines shall have 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 ( $\frac{1}{4}$ ) 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. The substances to be tested for are: bromide, chloride, total dissolved

solids, methane, iron, manganese, arsenic, boron, and lithium. Such testing is the responsibility of the permittee and, at the permittee's expense, to be conducted by a person or company approved by the Oil and Gas Inspector. ~~The Such~~ Oil and Gas Inspector and the water well owner 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.

- § 15. That Article XV, Section 13-1516 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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.

- § 16. That Article XV, Section 13-1517 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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.

§ 17. That Article XV, Section 13-1518 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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.~~

§ 18. That Article XV, Section 13-1519 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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 (5) 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.

§ 19. That Article XV, Section 13-1522 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

**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.

\* \* \*

§ 20. 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 \_\_\_\_\_, 2015

\_\_\_\_\_  
Cindy Rosenthal, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Hall, City Clerk

NOT ADOPTED this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Cindy Rosenthal, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Hall, City Clerk



1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 809

By: Bingman

4  
5  
6 AS INTRODUCED

7 An Act relating to oil and gas; stating regulatory  
8 authority over certain drilling, completing, fracture  
9 stimulating, and operation of oil and gas wells and  
10 produced water disposal wells; prohibiting certain  
11 regulation by municipalities, counties or political  
12 subdivisions; stating exception; authorizing  
13 Corporation Commission to make certain determination;  
14 providing certain rebuttable presumption; authorizing  
15 Corporation Commission to implement rules; repealing  
16 52 O.S. 2011, Section 137, which relates to powers of  
17 cities and towns; providing for codification;  
18 providing for noncodification; and declaring an  
19 emergency.

20  
21  
22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. NEW LAW A new section of law to be codified  
24 in the Oklahoma Statutes as Section 137.1 of Title 52, unless there  
is created a duplication in numbering, reads as follows:

25 The drilling, completing, fracture stimulating, and operations  
26 of oil and gas wells, and produced water wells related thereto, are  
27 of statewide importance and concern wherein primary regulation is by  
28 the State of Oklahoma through this title and the jurisdiction  
29 granted the Corporation Commission pursuant to Section 139 of Title

1 | 52 of the Oklahoma Statutes and Section 52 of Title 17 of the  
2 | Oklahoma Statutes. State regulation does not prohibit  
3 | municipalities, counties or other political subdivisions from  
4 | enacting reasonable ordinances, rules, and regulations relating to  
5 | the local aspects of the oil and gas operations within its  
6 | boundaries, provided such ordinances, rules, and regulations are  
7 | reasonable and consistent with, and not in opposition to, the  
8 | regulation established by this title and the Corporation Commission.  
9 | No municipal, county or other political subdivision ordinance, rule  
10 | or regulation may prohibit or ban the drilling, completing, fracture  
11 | stimulating or operations of oil and gas wells, or produced water  
12 | disposal wells related thereto, within its boundaries without the  
13 | approval of the Corporation Commission, except that the municipal,  
14 | county or other political subdivision may enact reasonable setbacks  
15 | for surface operations based upon the necessity to protect the  
16 | health, safety, and welfare of its citizens. Upon application and  
17 | notice, the Corporation Commission shall have the authority and  
18 | jurisdiction to determine whether a municipal, county or other  
19 | political subdivision ordinance, rule or regulation related to the  
20 | drilling, completing, fracture stimulating, and operations of oil  
21 | and gas wells, and produced water disposal wells related thereto, is  
22 | reasonable and consistent with, and not in opposition to, regulation  
23 | by the Corporation Commission. Any municipal, county or other  
24 | governmental subdivision ordinance, rule or regulation enacted prior

1 to the effective date of this act shall be subject to a rebuttable  
2 presumption of validity. Any municipal, county or other political  
3 subdivision ordinance, rule or regulation found by the Corporation  
4 Commission to be unreasonable or inconsistent with, or in opposition  
5 to, state law or regulation by the Commission shall be void and  
6 unenforceable.

7 SECTION 2. NEW LAW A new section of law not to be  
8 codified in the Oklahoma Statutes reads as follows:

9 The Corporation Commission is authorized to promulgate any rule  
10 or issue orders as necessary to implement the provisions of this  
11 act.

12 SECTION 3. REPEALER 52 O.S. 2011, Section 137 , is  
13 hereby repealed.

14 SECTION 4. It being immediately necessary for the preservation  
15 of the public peace, health and safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval.

18  
19 55-1-852 MJM 1/22/2015 9:36:53 PM  
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23  
24



1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 55th Legislature (2015)

4   HOUSE BILL 2178

                              By: Hickman

7                               AS INTRODUCED

8           An Act relating to oil and gas; authorizing  
9           regulation by municipalities, counties and other  
10          political subdivisions of certain oil and gas  
11          operations and establishing setbacks; providing  
12          certain limitation; prohibiting certain regulations;  
13          making certain operations subject to jurisdiction and  
14          regulation of the Corporation Commission; repealing  
15          52 O.S. 2011, Section 137, which relates to powers of  
16          cities and towns to regulate oil and gas drilling or  
17          production; providing for codification; and declaring  
18          an emergency.

16   BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17           SECTION 1.       NEW LAW       A new section of law to be codified  
18           in the Oklahoma Statutes as Section 137.1 of Title 52, unless there  
19           is created a duplication in numbering, reads as follows:

20           A municipality, county, or other political subdivision may enact  
21           reasonable ordinances, rules, and regulations concerning road use,  
22           traffic, noise, and odors incidental to oil and gas operations  
23           within its boundaries, provided such ordinances, rules, and  
24           regulations are not inconsistent with any regulation established by

1 Title 52 of the Oklahoma Statutes or the Corporation Commission. A  
2 municipality, county, or other political subdivision may also  
3 establish setbacks and fencing requirements for oil and gas well  
4 site locations as are reasonably necessary to protect the health,  
5 safety, and welfare of its citizens, but may not otherwise regulate,  
6 prohibit, or ban any oil and gas operations, including oil and gas  
7 exploration, drilling, fracture stimulation, completion, production,  
8 maintenance, plugging and abandonment, produced water disposal, or  
9 secondary recovery operations. Such operations shall be subject to  
10 the exclusive jurisdiction and regulation of the Corporation  
11 Commission.

12 SECTION 2. REPEALER 52 O.S. 2011, Section 137, is hereby  
13 repealed.

14 SECTION 3. It being immediately necessary for the preservation  
15 of the public peace, health and safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval.

18  
19 COMMITTEE REPORT BY: COMMITTEE ON ENVIRONMENTAL LAW, dated  
20 02/10/2015 - DO PASS.  
21  
22  
23  
24

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 809

By: Bingman

AS INTRODUCED

An Act relating to oil and gas; stating regulatory authority over certain drilling, completing, fracture stimulating, and operation of oil and gas wells and produced water disposal wells; prohibiting certain regulation by municipalities, counties or political subdivisions; stating exception; ~~authorizing Corporation Commission to make certain determination;~~ providing certain rebuttable presumption; authorizing Corporation Commission to implement rules; ~~repealing~~ amending 52 O.S. 2011, Section 137, which relates to powers of cities and towns; providing for codification; ~~providing for noncodification;~~ and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 137.1 of Title 52, unless there is created a duplication in numbering, reads as follows:

The drilling, completing, fracture stimulating, and operations of oil and gas wells, and produced water wells related thereto, are of statewide importance and concern wherein primary regulation is by the State of Oklahoma through this title and the jurisdiction granted the Corporation Commission pursuant to Section 139 of Title 52 of the Oklahoma Statutes and Section 52 of Title 17 of the Oklahoma Statutes. State regulation does not prohibit municipalities, counties or other political subdivisions from enacting ~~reasonable~~ ordinances, rules, and regulations relating to the local aspects of the oil and gas operations which include, but are not limited to, road use, traffic, noise, odors, setbacks, fencing, and protection of water resources within its boundaries, provided such ordinances, rules, and regulations are ~~reasonable and not inconsistent with, and not in opposition to, the purposes of~~ the regulation established by this title and the Corporation Commission. No municipal, county or other political subdivision ordinance, rule or regulation may effectively prohibit or ban the drilling, completing, fracture stimulating or operations of oil and gas wells, or produced water disposal wells related thereto, within its boundaries without the approval of the Corporation Commission, ~~except that the municipal, county or other political subdivision may enact reasonable setbacks for surface operations based upon the necessity to protect the health, safety, and welfare of its citizens. Upon application and notice, the Corporation Commission shall have the authority and jurisdiction to determine whether a municipal, county or other political subdivision ordinance, rule or regulation related to the drilling, completing, fracture stimulating, and operations of oil and gas wells, and produced water disposal wells related thereto, is reasonable and consistent with, and not in opposition to, regulation by the Corporation~~



City of Norman Revisions following discussions with Stowers  
February 6, 2015

~~Commission.~~ Any municipal, county or other governmental subdivision ordinance, rule or regulation enacted prior to the effective date of this act shall be subject to a rebuttable presumption of validity. Any municipal, county or other political subdivision ordinance, rule or regulation found by ~~the Corporation Commission~~ a court of competent jurisdiction to be not rationally related to a legitimate governmental purpose, unreasonable or inconsistent with, or in opposition to, the purposes of state law or regulation by the Commission shall be void and unenforceable.

~~SECTION 2. NEW LAW~~ A new section of law not to be codified in the Oklahoma Statutes reads as follows:  
~~The Corporation Commission is authorized to promulgate any rule or issue orders as necessary to implement the provisions of this act.~~

~~SECTION 2 3. REPEALER~~ 52 O.S. 2011, Section 137 , is hereby amended as follows: repealed.

Nothing in Section 139 of this Title ~~this act~~ is intended to limit or restrict the rights of cities and towns to exercise its governmental corporate powers to prevent regulate local aspects of oil or gas operations drilling, therein nor under its police powers to provide its own rules and regulations with reference thereto to well-spacing units or drilling or production which they may have at this time under the general laws of the State of Oklahoma provided such municipal ordinance, rule, or regulation is not inconsistent with, or in opposition to, the purposes of state law or regulation by the Commission.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval. 55-1-852 MJM 1/22/2015 9:36:53 PM

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 2178

By: Hickman

AS INTRODUCED

An Act relating to oil and gas; authorizing regulation by municipalities, counties and other political subdivisions of certain oil and gas operations and establishing setbacks; providing certain limitation; prohibiting certain regulations; ~~making certain operations subject to jurisdiction and regulation of the Corporation Commission; repealing~~ amending 52 O.S. 2011, Section 137, which relates to powers of cities and towns to regulate oil and gas drilling or production; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 137.1 of Title 52, unless there is created a duplication in numbering, reads as follows:

A municipality, county, or other political subdivision may enact ~~reasonable~~ ordinances, rules, and regulations concerning local aspects of oil and gas operations as are necessary to protect the health, safety, and welfare of its citizens which include, but are not limited to road use, traffic, noise, ~~and odors, setbacks, fencing, and protection of water resources,~~ incidental to oil and gas operations within its boundaries, provided such ordinances, rules, and regulations are not inconsistent with the purposes of any regulation established by Title 52 of the Oklahoma Statutes or the Corporation Commission. A municipality, county, or other political subdivision ~~may also establish setbacks and fencing requirements for oil and gas well site locations as are reasonably necessary to protect the health, safety, and welfare of its citizens, but~~ may not otherwise effectively regulate, prohibit, or ban any oil and gas operations, including oil and gas exploration, drilling, fracture stimulation, completion, production, maintenance, plugging and abandonment, produced water disposal, or secondary recovery operations. Such operations shall be subject to the ~~exclusive~~ primary jurisdiction and regulation of the Corporation Commission.

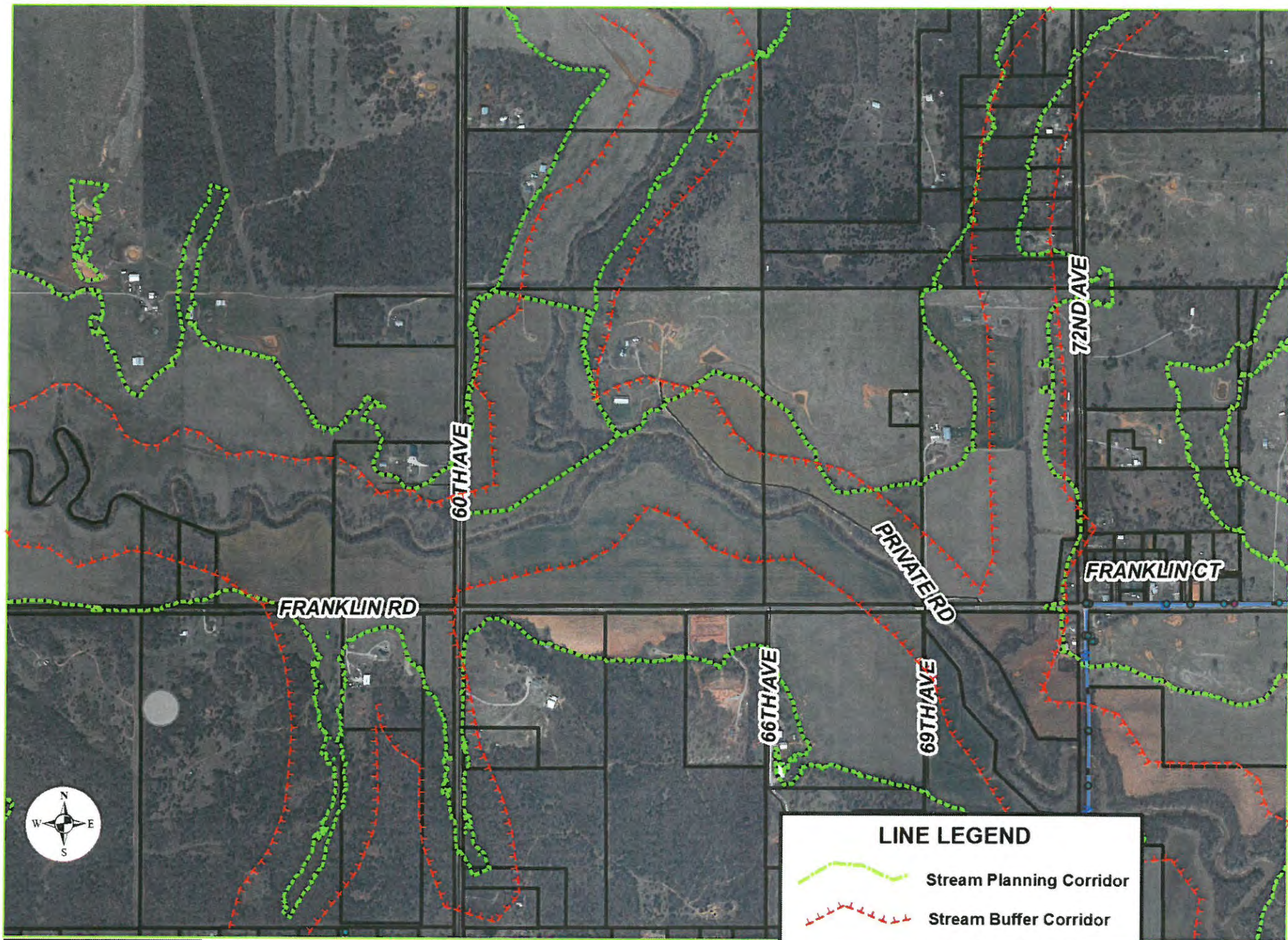
SECTION 2. ~~REPEALER~~ 52 O.S. 2011, Section 137, is hereby amended as follows: ~~repealed~~.

Nothing in Section 139 of this Title ~~this act~~ is intended to limit or restrict the rights of cities and towns to exercise its governmental corporate powers to prevent regulate local aspects of oil or gas operations drilling, therein nor under its police powers to provide its own rules and regulations with reference thereto ~~to well spacing units or drilling or production which they may~~

have at this time under the general laws of the State of Oklahoma provided such municipal ordinance, rule, or regulation is not inconsistent with, or in opposition to, the purposes of state law or regulation by the Commission.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.





1 inch = 1,000 feet

Stream Buffer Corridor