

ORDINANCE NO. 677

AN ORDINANCE OF THE CITY OF BLANCHARD, OKLAHOMA AMENDING ARTICLE 1 AND REPEALING ARTICLE 2 OF CHAPTER 14 OF THE BLANCHARD MUNICIPAL CODE PERTAINING TO OIL AND GAS DRILLING; DECLARING REPEALER; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, the Oklahoma Legislature adopted Senate Bill 809 and signed into law by the Governor in May of 2015 authorizing regulations by municipalities to 1) “enact reasonable ordinances, rules and regulations concerning road use, traffic, noise and odors incidental to oil and gas operations within [their] boundaries” so long as such ordinances, rules and regulations are not inconsistent with regulations established under Title 52 or by the Oklahoma Corporation Commission, and 2) “establish reasonable setbacks and fencing requirements for oil and gas well site locations as are reasonably necessary to protect the health, safety and welfare of [their] citizens but may not effectively prohibit or ban any oil and gas operations;” and

WHEREAS, local governments are preempted from regulating the same features of oil and gas drilling operations or accomplishing the same purposes regulated under the Oklahoma Corporation Commission; and

WHEREAS, the purpose of this ordinance is to provide for the reasonable development of land for oil and gas drilling while providing adequate health, safety and general welfare protections of the City residents. Oil and gas exploration, drilling and extraction operations involve activities that are economically important and will impact the City. Accordingly, it is necessary and appropriate to adopt reasonable requirements for oil and gas resource development so that these resources can be obtained in a manner that is economically remunerative, and that minimizes the potential impact on the resident of the City.

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

SECTION 1. That Article 1 of Chapter 14 of the Blanchard Code of Ordinances be and the same is hereby amended at Section 14-101 to read as follows:

§14-101 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Administrative. A regulatory review and/or action performed by an employee and/or contractor of the City and not deemed a legislative or quasi-judicial action.

Applicant. Any person, owner, Operator, partnership, company, corporation and

its subcontractors and agents who has an interest in real estate for the purpose of exploring or drilling for, producing, or transporting oil or gas.

City Streets. Shall mean all streets, roads, alleys and rights-of-way within the corporate limits of Blanchard.

Drilling Permits. Shall mean a written permit allowing the holder thereof to drill one oil or gas well within the legally described area of the City and in conformity with the provisions of this Article.

Exploration. Geologic or geophysical activities, including, but not limited to surveying and seismic exploration, related to the search for oil, gas, or other sub-surface hydrocarbons.

Local street. A public street designed to provide access to abutting lots and to discourage through traffic.

Official Truck Route. Shall mean traffic routes on which travel of vehicles in excess of 26,000 GVWR is permitted.

Oil and Gas. Means oil or gas or both. "Oil and gas" refers to not only to oil and gas in combination with each other but also generally to oil, gas casinghead gas, casinghead gasoline, gas-distillate or other hydrocarbons, or any combination of combinations thereof, which may be found in or produced from a common source or supply of oil, oil and gas, or gas-distillate.

Oil and Gas Well. A hole drilled into the earth for the purpose of exploring for or extracting oil, gas, or other hydrocarbon substances.

Operator. The person of record, that is responsible for and actually in charge and control of drilling, maintaining, operating, pumping or controlling any well including, without limitation, a unit Operator. If the "Operator", as defined herein, for any well is not the lessee of any premises affected by the provisions of this chapter, then such lessee shall also be deemed to be an Operator. In the event there is no oil and gas lease relating to any premises affected by this chapter, the owner of the fee mineral estate in the premises shall also be deemed an Operator.

Protected Land Uses. Shall include religious institutions, public buildings, hospital buildings, schools, residentially zoned properties, and residential dwellings.

Road Repair and Maintenance Agreement. A written agreement between the applicant and the City obligating the applicant to repair damage, excluding ordinary wear and tear, if any, to City streets, including but not limited to bridges, caused by subcontractors or representatives in the performance of drilling or production of any wells authorized by the City or County.

Well. An oil and gas well or an injection well, including but not limited to

directional drilling wells (for example, any well hole drilled into the ground excluding water wells).

SECTION 2. That Article 1 of Chapter 14 of the Blanchard Code of Ordinances be and the same is hereby amended at Section 14-102 to read as follows:

§14-102 PERMIT REQUIREMENT.

A. No oil or gas well site, or additional oil or gas wells, shall be constructed or located within the City unless an administrative permit under this ordinance has been issued by the City to the applicant approving the construction or preparation of the site for oil or gas development or construction of natural gas compressor stations or natural gas processing plants.

B. Each application shall be submitted with the fee established pursuant to resolution of the City as adopted by the City Council. Such fee shall be reasonable related to the cost of administering this Chapter.

Editor's Note: Current sum is \$7,500.00 per well location.

C. Any modification to an existing and/or permitted oil or gas well site that materially alters the size, location, number of wells or accessory equipment or structures, shall require a modification of the permit under this ordinance. Like-kind replacements shall not require a permit modification.

D. Except for the regulation of Official Truck Routes and noise from subsequent operations, wells that were permitted and constructed prior to the adoption of this ordinance shall not be required to meet the requirements of this ordinance. Any modification to an existing or permitted oil or gas well site that occurs after the effective date of this ordinance and materially alters the size, type, location, number of wells and other accessory equipment or structures, shall require compliance with this ordinance.

E. An oil or gas well permit shall not be required for exploration (as defined in this Ordinance) for oil or gas.

F. If an applicant does not conduct said business for a period of one (1) year, the drilling permit shall be null and void. Permits issued under this ordinance shall not be transferable to any other applicant, except by majority vote of the City governing body, and the filing of an application BY the applicant to whom such license is, or may be, transferred or assigned.

G. The Operator shall provide a copy of any "incident reports" or written complaints submitted by the Oklahoma Corporation Commission, Oklahoma Water Resources Board, Oklahoma Department of Health or any other state or federal agency within forty-five (45) days after the Operator has notice of the existence of such reports or complaints for wells located within the City of Blanchard.

SECTION 3. That Article 1 of Chapter 14 of the Blanchard Code of Ordinances be and the same is hereby amended at Section 14-103 to read as follows:

§14-103 PERMIT APPLICATION.

The applicant shall provide to the City at the time of permit application:

1. A narrative describing an overview of the project including the number of acres to be disturbed for development, the number of wells to be drilled including Corporation Commission permit number(s) for all wells, if available, at the time of submittal and provided when issued later, and the location, number and description of equipment and structures to the extent known. In addition to the narrative statement, each application shall contain the following:

- The surface owner's name, address, and phone number.

2. The contact information of the individual or individuals responsible for the operation and activities at the oil or gas well site shall be provided to the City and all applicable emergency responders as determined by the City. Such information shall include a phone number where such individual or individuals can be contacted twenty-four (24) hours per day, three-hundred sixty-five (365) days a year. Annually, or upon any change of relevant circumstances, the applicant shall update annually such information and provide it to the City and all applicable emergency responders as determined by the City for each phase of drilling, fracking, production and completion.

3. A scaled site plan of the oil or gas well site showing the limits of drilling pad, access roads and indicating pertinent equipment on the location.

4. A truck route map that clearly defines the proposed driving directions for vehicular entrance and departure from the site. The map shall display the entire route to and from the nearest location on a City of Blanchard truck route, as defined by the City Council by resolution or ordinance, or to the corporate limits of the City of Blanchard, if not entering the City on an approved truck route. The proposed route shall be the most direct path to a City of Blanchard truck route. A less direct path to a City of Blanchard truck route may be proposed based on the following factors:

- a. Road conditions, carrying capacities, road widths, bridge navigation, or other safety related concerns.
- b. Reasonably minimizing impact on local traffic.

5. All Operators using City streets to access well sites outside the City limits, including existing wells, will be required to execute an Agreement in the same manner as applicants within City limits.

6. A statement that the applicant will make the operation's Spill Prevention Control and Countermeasures (SPCC), as required by EPA, to be available to the City

and all emergency responders upon request.

7. The applicant shall submit with application a certificate of comprehensive general liability insurance in the amount of no less than one-million (\$1,000,000.00) dollars per occurrence and pollution policy in the amount of no less than one-million (\$1,000,000.00) dollars from a company authorized to do business in the state of Oklahoma shall write the policy. The certificate shall require at least thirty (30) days' notice to the City prior to termination of coverage for any reason.

8. The applicant shall deposit a cash bond in the sum of ten-thousand (\$10,000.00) dollars for each well site for any repair or reconstruction which is required to be made upon any street or other municipal infrastructure that is damaged as a result of operations or ingress or egress during said operations.

Costs for repairs in excess of \$10,000 shall be reimbursed by the Operator to the City upon submittal of an invoice by the City for such repairs during the operations of the well as specified by a Road Repair and Maintenance Agreement.

SECTION 4. That Article 1 of Chapter 14 of the Blanchard Code of Ordinances be and the same is hereby amended at Section 14-104 to read as follows:

§14-104 ISSUANCE OF PERMIT.

A. Within seven (7) business days after receipt of a permit application, the City will determine whether the application is complete and advise the applicant accordingly.

B. If the application is complete and fulfills the requirements of this ordinance, the City shall issue a permit within twenty-one calendar (21) days following the date the complete application was submitted.

C. If the application is incomplete or does not fulfill the requirements of this ordinance, the City shall return the application to the applicant. After necessary changes have been made the City shall follow Section 14-104(B) of this section.

D. As a condition of permit approval, applicant shall provide all permits (intent to drill) and plans (disposal sites) from the Oklahoma Corporation Commission and all other appropriate regulatory agencies within thirty (30) days of receipt of such permits and plans.

E. A legal description of the parcel as determined by the City and information needed to gain access to the well site in the event of an emergency. The City will assign the address upon issuance of permit based on the location of driveway.

SECTION 5. That Article 1 of Chapter 14 of the Blanchard Code of Ordinances be and the same is hereby amended at Section 14-105 to read as follows:

§14-105 SITE DESIGN AND INSTALLATION.

A. Access.

1. Vehicular access to a natural gas well, oil well or well pad shall be conducted along the “Official Truck Route”.

2. Truck travel associated with permitted activities which is not confined within the “Official Truck Route” shall be considered a violation of this Article.

3. The City adopted standards pertaining to minimum traffic sight distances for all access points shall be adhered to. A stabilized construction entrance shall be installed between the site and the access road pursuant to the City’s general engineering details.

4. Access directly to State roads from a well site may require an Oklahoma Department of Transportation (ODOT) Driveway Permit pursuant to an ODOT Driveway Agreement. Prior to initiating any work at a drill site, the City shall be provided a copy of any required Approach Permit.

5. Access directly to the City local streets and section line roads shall require a Road Repair and Maintenance Agreement provided by the City prior to initiating any work at well site. The Operator shall comply with any generally applicable permitting requirements for the City roads that are to be used by vehicles for site construction, drilling activities and site operations and shall be the responsible party to insure compliance by all contractors and subcontractors.

6. The Road Repair and Maintenance Agreement shall be signed by the Operator prior to the beginning of seismic testing or to the issuance of a drilling operations permit. The Road Repair and Maintenance Agreement shall cover permitting for any desired use of the City streets, requirements for road revisions such as for safe driveway approaches, and fees and notice regarding damages or obstructions to City streets used. The Operator may also be required to pay for traffic control during times of inordinate traffic disturbances that keep people from accessing their homes and businesses.

7. No Operator shall excavate or construct any lines for the conveyance of fuel, water, oil, oil and gas or petroleum liquids on, under or through the streets, alleys or other properties owned by the City without an easement or right of way permit to include conduit permit from the City, and then only in strict compliance with other City ordinances and all requirements of the City’s Public Works Department. A conduit fee of \$250.

8. The Road Repair and Maintenance Agreement shall include a video tape of all proposed public roads utilized to access the site for both pre- and post-drilling conditions.

B. Height.

1. There shall be an exception to the height restrictions contained in this section for the temporary placement of drilling rigs, drying tanks, pad drilling and other accessory uses necessary for the actual time period of drilling or re-drilling of an oil or gas well or pad drilling.

C. Setbacks/Location.

1. Oil and gas well bores may not be constructed less than six-hundred sixty (660) feet and tank batteries and gas processing facilities not less than two-hundred fifty (250) feet from any existing occupied structure.

2. Recognizing that the specific location of equipment and facilities is an integral part of the oil and gas development, and as part of the planning process, Operator shall strive to consider the location of its temporary and permanent operations, where prudent and possible, so as to minimize interference with City residents' enjoyment of their property and future City development activities as authorized by the City applicable ordinances. Therefore, this section shall not prohibit an Operator and surface owner from agreeing in writing to setback provisions with distances different from those set forth in this section.

D. Screening and Fencing.

1. Upon completion of drilling or re-drilling in residential, commercial or industrial zones, security fencing, acceptable to the landowner and the Operator, and the City shall be installed within thirty (30) days after the completion of the well, at the oil or gas well site to secure well heads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and structures on the oil or gas well site.

2. Security fencing shall be at least six (6) feet in height equipped with lockable gates at every access point and have vehicular openings no less than twenty (20) feet wide, pursuant to the International Fire Code requirements for minimum fire lane access. Additional lockable gates used to access oil and gas well sites by foot may be allowed, as necessary. The Fire Chief shall be provided with a method to access the drill site in the case of an emergency, preferably by use of the Knox system.

3. Warning signs shall be placed on the fencing surrounding the oil or gas well site providing notice of the potential dangers and the contact information in case of an emergency. Beginning at drilling and through completion stage, clearly visible warning signage must be posted on the pad site.

4. In construction of oil or gas well sites, the natural surrounding should be considered and attempts made to preserve existing trees and other native vegetation. Existing trees and respective root systems should not be disturbed whenever possible. Re-forestation/re-vegetation of the well site will be provided by the

owner/Operator as required by the State rules governing oil and gas conservation, if applicable or as approved by surface owner.

E. Lighting.

Lighting at the oil or gas well site, either temporary or permanent, shall be directed downward and inward toward the activity, so as to minimize glare on public roads and prevent direct illumination of adjacent properties. Lighting shall be adequate to ensure safety while minimizing the disturbance to adjacent properties.

F. Noise.

Operator shall provide and post 24-hours, 7-days per week contact information to deal with all noise complaints arising from Operator's oil and gas facilities. Operator shall respond to all reasonable complaints regarding noise.

The City recognizes that oil and gas development is accompanied by inherent noise. However, the Operator shall consider, to the extent possible, mitigation of noise resulting from the oil or gas well development.

1. The Operator will be responsible (to include costs) and shall comply with OSHA standards as a safe operating level during permissible daytime levels of 90dB between the hours of 6:00 a.m. and 9:00 p.m. and permissible nighttime levels of 70dB between the hours of 9:00 p.m. and 6:00 a.m. using standard equipment or an allowance of an additional 10dB for "short-term" events such as motor malfunctions, etc. not to exceed seventy-two (72) hours.

- a. Noise emitted by any drilling activity shall be measured from the principal building of any of the protected land uses as defined in §14-101.
- b. Noise shall be measured on a sound level meter of standard design and quality having specifications recognized and established by the American National Standards Institute.
 - i. Measurements with sound level meters shall be made when wind velocity at the time and place of the measurement is not more than five (5) miles per hour, or twenty-five miles per hour with a windscreen.
 - ii. In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of the sound level measurement.

2. If a drilling permit is issued for any location within five-hundred feet (500') of any existing residence, religious institution, public building, hospital building, school, or

residentially zoned property, then a sound proof barrier shall be installed during drilling and completion and any subsequent operations which generate noise levels in excess of 75dB.

G. Dust Control, Vibrations and Odors.

1. To prevent injury or nuisances to persons living and working in the area surrounding the operation site, the Operator shall conduct drilling and production in a manner that minimizes dust, vibrations, or odors, and in accordance with industry best practices for drilling and production of gas and other hydro-carbons.

2. The Operator shall adopt proven technological improvements in industry standards for drilling and production of reducing dust, vibration, and odor.

3. If the City determines that the dust, vibrations, or odors related to the drilling and production use present risk of injury or have become nuisance persons living and working in the area, the City shall require the Operator to adopt reasonable methods for reducing the dust, vibrations, and odors.

H. Floodplain.

A separate floodplain development permit shall be required for any drilling related activities occurring within the floodplain. Drilling, storage, and other constructed or permanent activities shall not be permitted within the floodway.

SECTION 6. That Article 1 of Chapter 14 of the Blanchard Code of Ordinances be and the same is hereby amended at Section 14-106 to read as follows:

§14-106 ZONING CLASSIFICATION.

Subject to the provisions of this ordinance:

A. An oil or gas well site shall be considered a permitted use by right within any Zoning District(s), subject to the standards listed herein.

SECTION 7. That Article 1 of Chapter 14 of the Blanchard Code of Ordinances be and the same is hereby amended at Section 14-107 to read as follows:

§14-107 ANNUAL PERMITS.

Annual permits for the operation, maintenance, cleaning, swabbing and reworking of all completed and operating oil, gas and disposal wells, now existing or hereafter drilled, are hereby required, and shall be issued upon payment of five-hundred (\$500.00) dollars per year and upon the filing of copies of insurance certificates for ensuing year. Such annual fee shall be paid and proof of insurance coverage filed on the anniversary date of the initial drilling permit, or if no such permit was required or obtained, within sixty (60) days after the effective date hereof.

SECTION 8. That Article 2 of Chapter 14 of the Blanchard Code of Ordinances be and the same is hereby repealed.

SECTION 9. That Article 3 of Chapter 14 of the Blanchard Code of Ordinances be and the same shall remain the same.

SECTION 10. 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, said 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.

SECTION 11. REPEALER. All former ordinances and/or parts of ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 12. EMERGENCY. Whereas, it being immediately necessary for the preservation of the public health, peace and safety of the City of Blanchard and the inhabitants thereof, an emergency is hereby declared to exist, by reason whereof, this Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

PASSED and APPROVED and the Emergency Clause voted upon separately by the City Council of the City of Blanchard, Oklahoma on this 10th day of July, 2018.

/s/ Eddie Odle
Mayor

ATTEST: (Seal)

/s/Susie Maeder
City Clerk

APPROVED AS TO FORM on this 10th day of July, 2018.

/s/David L. Perryman
City Attorney