



**CITY OF TYLER  
CITY COUNCIL COMMUNICATION**

**Agenda Number:** O-1

**Date:** March 26, 2008

**Subject:** Request that the City Council consider an ordinance amending Tyler City Code Chapter 10 "Planning and Zoning", by moving Article VI, "Oil and Gas", to a new Chapter 20 to be titled "Oil and Gas"; moving Chapter 10, Article VII, "Cotton Belt Route Train Depot" to Chapter 12, "Airport", Article VII and changing the name to "Transit"; changing the name of Chapter 12 to "Airport and Transit"; changing the name of Chapter 12, Article III to "Airport Commercial Activities"; and changing the name of Art VI to "Airport Passenger Facility Charges."

**Page:** 1 of 1

**Item Reference:**

As a result of Tyler 21, a complete revision and rewrite of Code Chapter 10 is underway that will result in a new unified development set of regulations for Tyler. The current Chapter 10 included new sets of regulations that are not directly related to development and thus were not part of that review process. The two subparts of Chapter 10 that are not part of the Tyler 21 Development review are Article VI, "Oil and Gas", and Article VII, "Cotton Belt Route Train Depot" which should now be moved to other locations in the City Code.

The regulations relating to the Cotton Belt Route Train Depot relate to the City's transit services which were brought in house last year after many years of being contracted out. Since these transit services are now being operated directly by the City, there are some additional regulations including the rates charged riders that should be reviewed and approved by the City Council. The attached ordinance moves the non-development related regulations out of Chapter 10 and also adds all Transit regulations in one place in the Code for City Council review.

**RECOMMENDATION:**

It is recommended that the City Council review and approve the attached ordinance amending the City Code relating to oil and gas wells and transit services.

*Gary C. Landers*

**Drafted/Recommended By:**  
**Department Leader** Gary C. Landers

**Edited/Submitted By:**  
**City Manager**

**ORDINANCE NO. 0-2008-45**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING THE ZONING ORDINANCE IN TYLER CITY CODE CHAPTER 10, "PLANNING AND ZONING", BY MOVING ARTICLE VI, "OIL AND GAS", TO NEW A CHAPTER 20 TITLED "OIL AND GAS"; ARTICLE VII, "COTTON BELT ROUTE TRAIN DEPOT" TO CHAPTER 12, "AIRPORT"; AND RENAMING CERTAIN SECTIONS OF CHAPTER 12; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, as a part of Tyler 21, Tyler is reviewing and adopting a new UDC (Unified Development Code) this Spring; and

**WHEREAS**, the City's outside consultants have delivered a re-write of Chapter 10 of the current City Code; and

**WHEREAS**, Article VI, "Oil and Gas" and Article VII, "Cotton Belt Route Train Depot" were not part of the Tyler 21 Development review and need to be moved to other Sections of the Tyler City Code; and

**WHEREAS**, the Planning and Zoning Commission reviewed the proposed UDC ordinance on March 18, 2008, and voted to recommend approval;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That Tyler City Code Chapter 10, "Planning and Zoning", Article VI, "Oil and Gas", is hereby removed from Chapter 10 and placed in a new Chapter 20 to read as follows:

**CHAPTER 20. OIL AND GAS**

**ARTICLE I. OIL AND GAS**

**TABLE OF CONTENTS**

**DIVISION A. GENERAL PROVISIONS APPLYING TO OIL & GAS EXPLORATION AND PRODUCTION**

Sec. 20-1	Definitions
Sec. 20-2.	City Engineer responsible, enforcement.
Sec. 20-3.	Compliance with All Federal and State Law Requirements.
Sec. 20-4.	Permit Required.
Sec. 20-5.	Location in or Obstruction of Streets.
Sec. 20-6.	Premises to be Kept Clean and Sanitary.
Sec. 20-7.	Watchman.
Sec. 20-8.	Noise Regulations.
Sec. 20-9.	Pits.
Sec. 20-10.	Fence Required upon Completion.
Sec. 20-11.	Maintenance of Drill Site and Roads.

- Sec. 20-12. Flaring and Burning of Escaping Gas.
- Sec. 20-13. Venting.
- Sec. 20-14. Inventory of Hazardous Chemicals on Drilling Sites.
- Sec. 20-15. Emergency Answering Service Required 24 Hours a Day; Posted  
Emergency Number.
- Sec. 20-16. Shutoff Valve or Switch.
- Sec. 20-17. Keyed Lock to Well Site.
- Sec. 20-18. through 20-28. Reserved.

## **DIVISION B. GENERAL PROVISIONS APPLYING TO ALL PERMIT APPLICATIONS**

- Sec. 20-29. Notice of Drilling Application
- Sec. 20-30. Application and Filing Fee.
- Sec. 20-31. Location of Well near Residence or Commercial Buildings; Permission of  
Adjacent Owners; Waivers.
- Sec. 20-32. Security Required.
- Sec. 20-33. Insurance Required Prior to Drilling.
- Sec. 20-34. Notification of Issuance.
- Sec. 20-35. Permit Term.
- Sec. 20-36. Completion of Well.
- Sec. 20-37. Refusal or Withdrawal of Permit; Processing Fee
- Sec. 20-38. Transfer of Permit.
- Sec. 20-39. Termination.
- Sec. 20-40. Supplemental Permit for Deepening Well
- Sec. 20-41. through 20-51. Reserved.

## **DIVISION C. LEVEL A PERMITS**

- Sec. 20-52. Permit Defined.
- Sec. 20-53. Application Requirements.
- Sec. 20-54. Permitting Procedure.
- Sec. 20-55. Permit Conditions.
- Sec. 20-56. Appeal by Permit Applicant.
- Sec. 20-57 through 20-67. Reserved.

## **DIVISION D. LEVEL B PERMIT**

- Sec. 20-68. Permit Defined.
- Sec. 20-69. Application Requirements.
- Sec. 20-70. Permitting Procedure.
- Sec. 20-71. Permit Conditions.
- Sec. 20-72. Appeal by the Permit Applicant.
- Sec. 20-73. through 20-83. Reserved.

## **DIVISION E. LEVEL C PERMITS**

- Sec. 20-84. Permit Defined.
- Sec. 20-85. Application Requirements.
- Sec. 20-86. Permitting Procedure.
- Sec. 20-87. Permit Conditions.
- Sec. 20-88. through 20-98. Reserved.

## **DIVISION F. REQUIREMENTS FOR OPERATING WELLS**

- Sec. 20-99. Well Operation.
- Sec. 20-100. Application Requirements.
- Sec. 20-101. Reserved.
- Sec. 20-102. Inspections Authorized.
- Sec. 20-103. Minimum Safety Requirements.
- Sec. 20-104. Notice to the City Engineer.
- Sec. 20-105. through 20-115. Reserved.

## **DIVISION G. COMPLIANCE**

- Sec. 20-116. Use of Security.
- Sec. 20-117. Revocation or Suspension
- Sec. 20-118. Creation of Oil & Gas Advisory Board.

## **DIVISION A. GENERAL PROVISIONS APPLYING TO OIL & GAS EXPLORATION AND PRODUCTION**

### **Sec. 20-1. Definitions.**

For purposes of this Chapter, the following words shall have the meanings defined herein:

*City block.* A regularly constituted block, bounded by two (2) streets or platted public right-of-way, designated and shown upon the plat or City map.

*Completion or completion date.* The date shown in the Texas Railroad Commission Form to indicate that all well drilling activities have been completed and the well is ready for production as the prerequisite to receiving an allowable from the Texas Railroad Commission.

*Lease.* Any tract of land subject to an oil, gas and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as one lease, and any tract of land in which the minerals are owned by an operator or someone holding it for operator, but which, due to the fee royalty ownership, is developed and operated as a separate tract.

*Minimum site plan.* A site plan and map accompanying each permit application that includes as a minimum the following information:

1. Proposed wellhead location, graphically displayed;
2. Proposed access route, from the proposed wellhead to the public thoroughfare proposed for access;
3. Probable location of all pits;
4. Probable pipeline route;
5. Probable location of any separator, tank, or other similar equipment;
6. Approximate size and shape of the well site (footprint).

*Permit.* A Level A, Level B, or Level C drilling permit required to be issued under this ordinance as a prerequisite to beginning oil or gas drilling activity in the City limits, or an annual operating permit for an operating oil or gas well.

*Permittee.* The person to whom a permit is issued for the drilling and operation of a well under this Chapter, that person's administrators, executors, heirs, successors, and assigns.

*Person.* Shall include both the singular and the plural, and shall mean and include any person, individual, firm, partnership, association, corporation, club, society, cooperative, trust, municipal corporation or political subdivision.

*Technical words or phrases.* All "technical" oil and gas industry words or phrases used in this Chapter and not specifically defined herein shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry.

*Well.* Includes any hole(s), bore(s) drilled or used for producing and recovering oil, gas, or liquid hydrocarbon.

*Wellhead.* The exact center of the location where the driller inserts the drill bit for purposes of drilling the well; the wellhead for the purposes of this Chapter shall also be known as the "hole." (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-2. City Engineer responsible; enforcement.**

The City Engineer is hereby designated to enforce the provisions of this Chapter and to make all necessary inspections and issue citations incident to obtaining compliance by all Permittees with the requirements of this Chapter. The City Attorney is authorized to undertake any necessary legal action, including suit for injunctive relief, to compel compliance with the terms of this Chapter. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-3. Compliance with All Federal and State Law Requirements.**

Each Permittee under this ordinance, or owner or operator of any oil or gas well in the City limits shall conduct all drilling and operating activities of said oil or gas well in full and complete compliance with any and all applicable state or Federal laws, rules, regulations, or other requirements. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-4. Permit Required.**

It is unlawful for any person, acting either for himself or acting as agent, employee, independent contractor or servant of any other person, to commence to drill or to operate any well within the City limits without conducting such activity in compliance with the terms of this Chapter, including the requirement for a permit for the drilling and operation of such well. Wells in place and operating at the effective date of this ordinance shall be grandfathered and may continue to operate so long as they comply with the regulations under which they were drilled and Division F herein. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-5. Location in or Obstruction of Streets.**

No well may be drilled and no permit shall be issued for any well to be drilled at any location which is within any City streets or alleys. No street or alley shall be blocked or encumbered or closed in any drilling or production operation, except by special order of the City Council, and then only on a temporary basis as shall be stipulated by the City Council. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-6. Premises to be Kept Clean and Sanitary.**

The premises of every well location shall be kept in a clean and sanitary condition, free from rubbish of every character, to the satisfaction of the City Engineer and the Smith County Health District, at all times drilling operations or reworking operations are being conducted and as long thereafter as oil and/or gas is or may be produced therefrom. This requirement shall also apply to temporarily abandoned or shut-in wells. Compliance with sanitation requirements shall include locating on the immediate drill site temporary bathroom facilities for the use of all personnel working at the drilling site. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-7. Watchman.**

When appropriate, the City Engineer may require the Permittee to maintain a watchman or other personnel on duty on the premises at needed times during initial drilling, completion or workover of a well. It shall not be necessary to keep an extra watchman on duty on the premises when other workmen of Permittee are on the premises. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-8. Noise Regulations.**

a. It is unlawful to operate or permit to be operated in connection with the drilling, completing, equipping, or abandoning of a well any engine, compressor or motor-driven machinery of any type which creates a sound level greater than 72 dB(a) when measured at a distance of three hundred feet (300') from the engine or measured immediately adjacent to any inhabited building not used in the drilling operation and located before commencement of drilling within the three hundred foot (300') distance; provided, however, a maximum sound level of 80 dB(a) shall apply to fracturing operations in connection with a well, and fracturing operations shall be conducted only during the hours of 7:00 a.m. to 7:00 p.m.

b. It is unlawful to operate or permit to be operated in connection with the operation of a producing well any engine, compressor or motor-driven machinery of any type which creates a sound level greater than 65 dB(a) when measured at a distance of three hundred feet (300') from the engine and measured immediately adjacent to any inhabited building located prior to installation of such equipment within the three hundred foot (300') distance.

c. Motor power for all operations after completion of drilling operations shall be by electricity or properly muffled gas or diesel engines. The muffler shall be of a type appropriate to operations; provided, however, that specialty mufflers may be required by the City Engineer, such as hospital zone mufflers, or the engines may be so designed or configured on the site to further attenuate anticipated noise problems during operation of the well.

d. Sound level measurements shall be made with a sound level meter conforming as a minimum to the requirements of American National Standards Institute S1.4-1971 Type 2 or its successor publication and set to an A-weighted response. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-9. Pits.**

The type of pit used in drilling operations shall be specified at the time of permitting. The pit and its contents shall be removed from the premises within ninety (90) days after completion of the well; provided, however, that the Permittee may apply for a 90-day extension from such requirements based on a showing of good cause, necessity to maintain said pit, inclement weather, or other factors. The City may designate a period of time shorter than the 90-day extension set out herein. Upon completion of use of earthen pits, such pits shall be filled and leveled in accordance with the time periods set out herein. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-10. Fence Required upon Completion.**

When appropriate, the City Engineer shall require the owners of each well upon completion thereof to enclose such well, together with all surface facilities and storage tanks, with a fence, having a minimum height of six feet (6') with all gates to be locked except when the Permittee or Permittee's employees are actually within the enclosure. The City may approve the erection of a fence made of wood or other material if such fence shall be at least six feet (6')

in height. The Permittee shall maintain the fence to the reasonable satisfaction of the City Engineer. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-11. Maintenance of Drill Site and Roads.**

a. The drill site and all roads and drives providing vehicular ingress and egress to the well site during the drilling process shall be maintained so as to prevent dirt, dust, or other similar materials from such roads and well sites from being carried in or deposited by the elements into the air or upon any public street, sidewalk or other public property or upon the property of another person.

b. If said well is completed as a producing well and actual production commences, Permittee shall construct and maintain a private road(s) (at either the same location as the original access road or at a new location approved in advance by the City Engineer) sufficient to provide vehicular ingress and egress to the well site from a location along a public road, the entrance to such public road to be approved by the City Engineer. Said private road, at a minimum, shall be maintained free of dust, dirt or mud so as to prevent the deposit therefrom of dirt, dust or other similar material on, along or upon any public street, sidewalk or other public property, or upon the property of a third party. That portion of the private roadway located within the right-of-way of a public street shall comply to the construction standards for commercial driveways. Such roadways shall be so maintained until said well is plugged and abandoned.

c. Upon completion of said well, or abandonment of same, Permittee will grade, level and restore the drilling site and other affected property in conformance with the City's drainage control ordinance. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-12. Flaring and Burning of Escaping Gas.**

Except as otherwise provided herein, no person engaged in drilling or operating any well may permit gas to escape or be vented from the well bore into the air, unless the gas is flared and burned. All gas flared or burned from a torch, pipe or any other burning device within the City limits must be done so as not to constitute a fire hazard to any property, and the location of the torch, pipe, or other burning device and the construction, maintenance and operation thereof shall at all times be in compliance with applicable regulations of the Texas Railroad Commission. The Fire Marshall shall be given 24 hours advance notice of any flaring activities, and such notice shall indicate to the Fire Marshall the exact date and time and anticipated length of the flaring procedure. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-13. Venting.**

Venting is not permissible in the drilling or operation of any oil or gas well except as otherwise stated herein. If the driller or operator is required to vent gas to the atmosphere in order to pump oil, or to maintain safety, or for other acceptable reasons, said driller or operator is required to request the approval of the City Engineer prior to venting, except in emergency situations. The City Engineer shall investigate the circumstances necessitating such venting, and shall approve same unless such venting would present a threat to the public health, safety, or welfare, or would otherwise be in violation of this ordinance or state or federal law requirements. Except in emergency situations, failure to notify and obtain approval from the City Engineer prior to venting shall subject violator to appropriate penalties set out in this ordinance. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-14. Inventory of Hazardous Chemicals on Drilling Sites.**

Each person owning or operating an oil or gas well in the City limits, shall provide the Fire Department a current inventory of hazardous materials used on said operator or owner's drilling or production site. All such hazardous materials located at any drilling or production site shall have the appropriate diamond shape and number clearly visible delineating the material contained therein. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-15. Emergency Answering Service Required 24 Hours a Day; Posted Emergency Number.**

a. Each operator conducting oil and gas activity in the City limits, shall have available and maintain 24 hours a day, 365 days a year a telephone answering service designed to allow any caller thereon to notify the operator of observed or perceived problems at the drilling or production site. Operators may use a unified answering service provided such service will permit rapid notification of the operator.

b. Each well site shall have posted a sign clearly indicating in letters a minimum of two inches in height the telephone number of the 24-hour emergency answering service required herein. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-16. Shutoff Valve or Switch.**

Each producing well located within the City limits shall maintain a shutoff valve or switch located thereon, clearly painted in a unique identifiable color approved by the Fire Marshall's office, which such valve or switch shall upon actuation be capable of terminating all production activity from the well. The Fire Department is hereby authorized in its discretion to actuate said valve or switch and close same in the event of any emergency. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-17. Keyed Lock to Well Site.**

Each Permittee shall provide the Fire Marshall with the opportunity to install a separately keyed lock or other similar device to allow the City access to the well site during any emergency. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-18. through 20-28. Reserved.**

**DIVISION B. GENERAL PROVISIONS APPLYING TO ALL PERMIT APPLICATIONS**

**Sec. 20-29. Notice of Drilling Application.**

a. Simultaneous with, or immediately before, the filing of any permit application required by this Chapter, the applicant shall post a sign at the location of the proposed access routes for the well or immediately adjacent to each entrance to the actual proposed well site, whichever location(s) shall be more visible. If possible, said sign must be placed in a location easily visible from any adjacent street or thoroughfare, or if no such location is available, then at the most highly visible location available. The sign shall contain lettering a minimum of two (2) inches in height in the following general format:

PROPOSED ACCESS/ENTRY POINT

## FOR AN OIL/GAS WELL SITE

A detailed site map can be reviewed at the City of Tyler Development Center, 423 West Ferguson Street. If you have questions or input, call 531-1134. Comments will be received from any interested citizens through \_\_\_\_\_ (ten days following the date of filing of the application).

b. The processing of the permit application will not begin, nor shall any time period begin to run, until a sign has been posted by the permit applicant. Following the filing of the application and the posting of the sign, interested citizens shall have ten (10) calendar days to make comments to the City Engineer regarding the proposed application. In addition, all application materials shall be available for inspection during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

### **Sec. 20-30. Application and Filing Fee.**

Every application for a permit to drill and operate a well shall be in writing, signed by the applicant or by some person duly authorized to sign same on the applicant's behalf, shall be filed with the City Engineer (who shall notify Water Utilities), and shall be accompanied with a filing fee of one thousand dollars (\$1,000.00). Each application shall be a request for a permit to drill and operate a single well. The application shall include all necessary information, including but not limited to the following:

1. Date of said application.
2. Name and address of the applicant, and if the applicant is a partnership, the names and addresses of the general partners.
3. If the applicant is a corporation, the names of the local agent, president, and chief executive officer of the corporation, name and address of the agent for service of process of the corporation, and the address of the local offices and the principal corporate offices.
4. Proposed site of the well, including
  - (a) name and address of the fee surface owner(s) of record.
  - (b) name and address of the lease owner(s) of record.
  - (c) brief description of the land.
5. Minimum site plan.
6. Description of all pits.
7. All information necessary to determine what level permit is required for issuance under this Chapter.
8. All specific information required as a result of determining the level permit to be issued. If a Level B or Level C permit is required, then a plat prepared by a duly licensed surveyor must be included showing the lots or tracts on which said well is located, the exact location of the proposed well, distances from well location to the exterior boundary lines of

the tract on which the well is drilled and the distances from the well location to all residences, schools, churches, hospitals or commercial buildings situated within three hundred feet (300') of the well location.

9. Proposed total depth of the well.

10. The proposed type of blowout prevention device shall be stated in the application. Blow out preventers shall be given a test for ability to function once a week during drilling operations. In addition to the function tests, if a well is planned for drilling into formations determined by the Railroad Commission to be hydrogen sulfide bearing, the blow out preventers shall be tested in accordance with Railroad Commission protocol applying to sour gas wells.

11. List of all waivers, including the expiration date of each, required by Section 10-373.

12. A statement that all information in the application is true and correct. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-31. Location of Well near Residence or Commercial Buildings; Permission of Adjacent Owners; Waivers.**

a. Except as otherwise provided herein, no well shall be drilled and no permit shall be issued for any well to be drilled within three hundred feet (300') of any residence, commercial building, or water facilities such as elevated ground storage tanks, lift stations, wells, treatment plants, booster station, etc., which is permanently affixed to the realty, without the applicant having first secured the written permission of the owner(s) of said building. For purposes of this ordinance, permission shall not be required from the owners of mobile homes unless the owner of said mobile home also owns the real property on which the mobile home is located. Signatures for waivers will be needed from landowners only; signatures are not required from tenants in said buildings.

b. In measuring said three hundred foot (300") distance, all measurements will be made from the proposed wellhead location to the closest load-bearing and supporting wall structure of each building. All measurements are to be made to those portions of said buildings which are intended to be habitable or occupied on a full-time basis; storage sheds, gazebos, covered patios and similar structures that are not enclosed are not to be considered in making such measurements. All measurements will be made to the actual wall surface and not to any overhanging roof eave or similar structure.

c. If any property owner denies access to their property for purposes of determining the distance measurement from the wellhead to the walls of the property owner's structure, then distances will be determined using methodologies such as transit and angle measurements or other similar methodology acceptable to the City Engineer which such distances shall be accepted for all purposes under this ordinance as incontestable.

d. Any waiver form used to obtain written permission of the property owner or owner's representative of any building as required herein shall contain, as a minimum, the following:

1. Name and address of the property owner;

2. Clear and unequivocal statement that the property owner agrees to the permitting of the well as reflected by the duly acknowledged signature of the property owner appearing on said form;

3. Statement of notice to the property owner that a permit to drill the well will not be granted until the applicant complies with all the terms of Chapter 10 of this Code.

e. Any waiver form used to obtain written permission of the owner or owner representative of any building must state the term of the waiver in the document itself, not to exceed the term of the permit.

f. The permit applicant shall make a good faith bona fide attempt to acquire the approval of all of the owners of the residential and commercial buildings located within three hundred feet (300') of any proposed well on the requisite form as specified herein. In so doing, the applicant shall provide true and accurate information to the property owner. If the applicant is successful in obtaining 100% of the necessary waivers, the applicant will be qualified to seek a Level A or B permit as otherwise specified herein. If, however, all of the owners of the residences and commercial buildings located within three hundred feet (300') of any proposed well have not given their written permission, then the applicant will be required to obtain a Level C permit as specified herein. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

#### **Sec. 20-32. Security Required.**

a. Generally. If a permit is approved for issuance by the City under the terms of this Chapter for the drilling and operation of a well, no actual drilling operation shall be commenced until the Permittee shall file with the City Engineer and maintain in current status sufficient security in the form of a bond or certificate of deposit approved for form by the City Attorney, or cash in lieu of the full amount of the bond, in such principal sum as determined by the City Manager, but to be not less than the aggregate sum of fifty thousand dollars (\$50,000.00). Any such bond posted as required herein shall consist of a \$5,000.00 cash bond and the remaining \$45,000.00 in the form of a surety bond executed by a reliable insurance company authorized to do business in the State of Texas as surety, and with the Permittee as principal, running to the City, for the benefit of the City and all persons concerned. In lieu of the surety portion of the bond, any certificate of deposit filed as permitted herein shall be free of any prior claim or obligation and shall not be pledged as security for any other purposes save and except as specified herein. In no instance, however, shall there be less than a five thousand dollar (\$5,000.00) cash bond posted as part of the total security. Any such bond or other security pledged as required herein shall be effective on or before the date it is filed with the City Engineer and remain in force and effect for a period of at least six (6) months subsequent to the expiration of the term of the permit issued herein.

b. Supplemental security. If the proceeds of the \$5,000.00 cash bond or other security required herein are applied to remedy noncompliance as provided in Sec. 20-115, the Permittee shall be required to provide immediately additional security of a like kind to maintain at all times the level of security as required under this Chapter. Failure to maintain security at all times as required under this Chapter shall constitute cause for revocation of permit as provided in Sec. 20-116.

c. Additional security. If at any time the City Manager reasonably considers any Permittee's bond or other security to be insufficient, the Manager may require the Permittee to file a new bond or additional security.

d. Conditions of security. Any security filed as required under this section shall be conditioned, on penalty of forfeiture or partial forfeiture to the City without written notice, on the following:

1. That Permittee shall comply with all of the terms of this Chapter;
2. That Permittee shall promptly pay all fines, penalties or other assessments imposed upon Permittee by reason of Permittee's breach of any of the terms of this Chapter;
3. That Permittee shall remedy any and all damage to streets, curbs, gutters, water lines, fire hydrants and other City property, occasioned in any manner by Permittee or its drilling, operation, and abandonment of said well;
4. That Permittee shall promptly fulfill all obligations under this Chapter, and shall conduct the drilling operations in full conformance with the requirements herein, including, but not limited to, abatement of dust and dirt, removal of mud from public streets and thoroughfares, watering of non-paved access roads, timely construction and erection of all fence structures as required herein, and other similar terms;
5. That Permittee shall promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the drilling or producing operations, and shall, after abandonment, grade, level, and restore said property in conformance with the City's drainage control ordinance;
6. That Permittee shall in all things fulfill the requirements of the site plan, and if required, any reclamation or restoration of the site stated as a condition of the issuance of the permit;
7. That Permittee shall indemnify and hold the City harmless from any and all liability growing out of or attributable to the granting of this permit or any of Permittee's actions with respect to the drilling, operation, and abandonment of said well.

e. Reduction in principal amount. If after completion of a well, the Permittee has complied with all the provisions of this Chapter, such as removing the derrick, clearing the premises, etc., the Permittee may apply to the City to have the bond or other security reduced to a sum of not less than ten thousand dollars (\$10,000.00) for the remainder of the time the well produces; provided, however, that the Permittee has met all the requirements of any permit hereunder, has otherwise acted in full compliance with this Chapter, and provided that the Permittee shall submit a bond or certificate of deposit in the correct principal amount and approved for form by the City Attorney, or cash in lieu thereof, and otherwise in conformance with this section as a substitute for any other security previously pledged under the provisions of Subsection 20-32, save and except that no such substitute shall be taken for the five thousand dollar (\$5,000.00) cash bond until such time as otherwise specified in this ordinance. Permittee may provide a blanket bond or certificate of deposit in the approved form specified herein, or cash in lieu thereof, in the principal amount of not less than ten thousand dollars (\$10,000.00) per well secured by said security, to a maximum principal amount of said security of fifty thousand dollars (\$50,000.00), said blanket security to secure all wells operated by the Permittee within the City limits, provided said blanket security is in a form acceptable to the City Attorney and otherwise conforms with this section.

f. For each completed well covered by security under this section that ceases to produce and is subsequently plugged and abandoned in accordance with the requirements of the

Railroad Commission, the security for said well shall be returned to the principal or in the case of blanket security, said well shall no longer require such security. To qualify for release of security as set out herein, the Permittee must provide copies of official Railroad Commission forms verifying the plugging and abandonment of the well and must remove all surface equipment used in the operation of the well including, but not limited to, pumps, compressors, storage tanks, and separator tanks.

g. Violation of Conditions. It shall be unlawful for the principal of any bond filed in accordance with this section to violate any condition of such bond. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

### **Sec. 20-33. Insurance Required Prior to Drilling.**

a. Generally. In addition to the bond required by Sec. 20-32, each Permittee, prior to the issuance of the permit and commencement of actual drilling operations, shall file with the City Engineer a certificate(s) of insurance showing that the Permittee has in full force and effect a policy or policies of standard comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the Permittee and the City as co-insured, and issued by an insurance company authorized to do business within the State of Texas. Such policy or policies, in the aggregate shall provide for the following minimum coverage:

1. For bodily injury or death, five hundred thousand dollars (\$500,000.00) as to any one person and one million dollars (\$1,000,000.00) as to any one accident.

2. For public liability for damage to property of others, five hundred thousand dollars (\$500,000.00).

b. In addition, prior to the issuance of the permit, Permittee shall file with the City Engineer a certificate(s) of insurance showing that the Permittee has in full force and effect a policy or policies of blowout or cost of well control insurance in an amount not less than one million dollars (\$1,000,000.00) for each well. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

### **Sec. 20-34. Notification of Issuance.**

Following the issuance of a permit as otherwise provided herein, the applicant shall place a notification of such issuance in the legal notice section of the local newspaper with the largest daily circulation in the City. Such notification shall be published no earlier than three (3) days following the issuance of the permit and no later than five (5) days following the issuance of the permit. Said notification shall state with particularity the name of the Permittee; the designated name of the well; the well location, identified by streets and other readily identifiable landmarks sufficient to inform the reader as to the exact location of the well; the anticipated date for drilling activity to begin; and any other specific information required to be published by the City. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

### **Sec. 20-35. Permit Term; If production will continue.**

Each permit shall have an initial term of one (1) year from the date of issuance; provided, two (2) time extensions of ninety (90) days each may be granted at the end of the original term, and provided the Permittee can make a showing of good cause for the delay as a precondition for approval of any extension. The City Manager or duly authorized designee shall determine the appropriateness of any permit extension. It shall be the responsibility of the

Permittee to file any requests for extension at least five (5) days in advance of the expiration date of the then-outstanding term. At the end of the initial term, or any extended term not to exceed a total of eighteen (18) months, the permit shall expire unless the Permittee is engaged in drilling or completion operations. Any decision not to grant a permit extension as provided herein may be appealed by the Permittee to City Council, which such decision shall be final. If production occurs during the permit term, then the permit shall continue with an indefinite term until production ceases and the well has been plugged and abandoned and in accordance with Division F. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-36. Completion of Well.**

Upon completion of the well, including performance of all production tests required by the Texas Railroad Commission as a precondition to issuance of a production allowable, the Permittee shall verbally notify the City Engineer as soon as possible thereafter, and shall formally certify completion of the well to the City by filing duplicates of Railroad Commission-required completion forms G-1 (gas well) or W-2 (oil well), or their successor forms, with the City within ten (10) days following the filing of same with the Railroad Commission. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-37. Refusal or Withdrawal of Permit; Processing Fee.**

If the permit for the well is refused, or if the applicant notifies the City in writing that the applicant does not elect to accept the permit as tendered and wishes to withdraw the application, or if the bond of the applicant is not approved, or if the applicant notifies the City in writing that the applicant wishes to withdraw the application for bond, or if following the issuance of the permit, the Permittee determines that drilling of the well is no longer feasible or possible, and the Permittee has undertaken no substantive activity in drilling the well to date, then the cash deposit filed by the applicant with the application shall be returned to the applicant, except there shall be retained therefrom by the City one hundred dollars (\$100.00) as a processing fee. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-38. Transfer of Permit.**

Upon application for transfer of permit duly presented to the City Engineer, and upon stipulation in writing by the applicant for transfer to assume all obligations of the current Permittee, including satisfactory security, bonds, and insurance, and upon a showing that the applicant for transfer would have otherwise been qualified for issuance of the original permit, a permit may be transferred into the name of a new Permittee. A permit transfer fee of two hundred dollars (\$200.00) must accompany all applications for transfer. Transfer of a permit shall not extend the term of the original permit or affect any other substantive requirements therein. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-39. Termination.**

When a permit has been issued under this Chapter, the same shall terminate and become inoperative without any action on the part of the City, unless, within the original term or extended term as set out in Sec. 20-35, actual drilling of the well commenced. Cessation of drilling operations for more than six (6) months shall operate to terminate and cancel the permit, and the well shall be considered as abandoned for all purposes of this Chapter. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-40. Supplemental Permit for Deepening Well.**

Once any well has either been completed as a producer or abandoned as a dry hole, it shall be unlawful for any person to drill such well to a deeper depth than that reached in the prior drilling operations without obtaining a supplemental permit for deepening the well. To receive a supplemental permit, the operator shall file a supplemental application with the City Engineer specifying:

1. The then-condition of the well and the casing therein;
2. The depth to which it proposed such well be deepened;
3. The proposed casing program to be used in connection with the proposed deepening operation; and,
4. Evidence of adequate current tests showing that the casing strings in the well meet or exceed all regulatory requirements of the Railroad Commission.

If the City Engineer and either the City Manager or the City Council, is satisfied that the well may be deepened with the same degree of safety as existed in the original well, a supplemental permit may be issued without additional filing fee to the Permittee authorizing the deepening and operation of the well to such specified depth. In any deeper drilling or any deeper completion of any deeper producing operations, the Permittee shall comply with all other provisions contained in this Chapter and the original permit applicable to the drilling, completion, and operation of a well. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-41. through 20-51. Reserved.**

### **DIVISION C LEVEL A PERMITS**

**Sec. 20-52. Permit Defined.**

a. Upon receipt of a permit application, the City Engineer shall determine if the application will qualify for a permit issued under this Division.

b. A permit issued under this Division shall be designated a Level A Permit. A well must satisfy all of the following criteria to be considered for a Level A Permit:

1. Proposed well location must be in a primarily rural, open area;
2. Proposed well location must have less than five (5) habitable structures within a five hundred foot (500') distance of the wellhead;
3. Proposed well location may not be within a five hundred foot (500') distance of any public school or full service hospital;
4. Proposed well location is not in a City park;
5. Proposed well must not penetrate a potential sour gas formation as defined by the Texas Railroad Commission;
6. Proposed well location must be out of the 100-year floodplain;

7. Proposed well will not be drilled to a formation at a true vertical depth in excess of twenty thousand feet (20,000').

8. If the proposed well location required the approval of adjacent surface property owners as provided in Sec. 20-31, the applicant has acquired 100% of the required approvals. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-53. Application Requirements.**

An application for a Level A Permit satisfying all the criteria set out in Sec. 20-52 shall include the following information:

1. Information satisfying all the requirements of Sec. 20-30 of this Chapter;
2. A minimum site plan;
3. Any other information required by the City Engineer to assure compliance with the requirements of this Chapter. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-54. Permitting Procedure.**

a. The applicant shall cooperate fully with the City Engineer in providing the information necessary to complete the permit application. Upon completion of the review of the permit application, the City Engineer shall make a recommendation to the City Manager as to whether a Level A Permit should issue. If the City Manager determines that the application complies in all respects with the provisions of this Chapter, the City Manager shall issue a permit for the drilling and operation of the well. In making this determination, the City Manager may request the recommendation of the Oil & Gas Advisory Board.

b. The City Manager shall act on an application for a Level A Permit within thirty (30) days after all information required for issuance of the permit has been filed with the City Engineer, provided that an additional thirty (30) days is permissible if the City Manager has requested recommendation of the Oil and Gas Advisory Board. The thirty (30) day review period shall not begin to run until the applicant has provided the City Engineer with a complete application package, including satisfaction of the requirements of Sec. 20.29 of this Chapter regarding timely posting of the required notice sign.

c. In reviewing the permit application, the City Engineer and the City Manager may consider the past performance of the applicant in compliance with City ordinances regulating oil and gas drilling activity. Should the applicant have a history of poor compliance, such that the City Manager believes that a subsequent permit would necessitate a more intense site plan, additional conditions, or other similar requirements, then the City Manager may, within ten (10) days of receipt of a completed application, determine that the pending application should require a Level B or Level C Permit. On receiving notification of this determination, the applicant may request a recommendation of the Oil & Gas Advisory Board. Processing of the application will be abated for thirty (30) days pending consideration by the Oil and Gas Advisory Board. The recommendation of the Board will be made to the City Manager and applicant, at which time the City Manager may decide to uphold the decision to require processing at Level B or C or whether to complete the processing at Level A. Thereafter, the permit shall be processed in accordance with the provisions of this Chapter regarding issuance of such permits; the time period for issuance of such permits shall begin on the date of the City Manager's

recommendation or the date of perfection of a permit application for the recommended permit, whichever date shall occur later.

d. Based on the applicant's prior compliance, the City Manager may also require as a condition of issuance of the permit increased security or insurance coverage in excess of that specified in Sec. 20-32 and Sec. 20-33.

e. The City Manager may impose any special conditions in the permit reasonably appropriate to achieve the purposes of this ordinance and to protect the public health, safety, and welfare.

f. The City Manager, upon a finding that the application fails to comply with the requirements of this Chapter or should not be approved for the reasons stated in Sections 20-32 and 20-33, may deny the permit. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-55. Permit Conditions.**

a. Each Level A Permit issued under this Division shall include the following:

1. By reference have incorporated therein all the provisions of this Chapter with the same force and effect as if this Chapter were copied verbatim in the permit.

2. Specify the well location with particularity to lot number, block number, name of addition or subdivision, or other available correct legal description, as indicated on the minimum site plan; provided, however, the exact wellhead location for a Level A Permit may vary by twenty feet (20') in either direction from the originally indicated survey point as long as such variance does not require the approval of adjacent property owners as set out in Sec. 20-31. If the site location does vary from that originally presented to the City Engineer, the Permittee shall upon completion of the well file with the City Engineer a revised site plan indicating the actual location of the wellhead.

3. Specify the term of the permit in conformance with Sec. 20-35.

4. Specify minimum driveway requirements in conformance with Sec. 20-32.

5. Specify the total depth to which the well may be drilled, not exceeding the projected depth.

6. Specify that no actual operations shall be commenced until the Permittee shall file and have approved security in the designated principal amount set out in the permit and conditioned as specified in Sec. 20-32.

7. Specify such conditions as are by this Chapter authorized or as are required by the City Manager.

b. The permit shall be in duplicate originals signed by the City Manager, and prior to delivery to the Permittee, shall be signed by the Permittee with one original to be retained by the City and one by the Permittee. When so signed such permit shall constitute the Permittee's drilling and operating license and a contractual obligation of the Permittee to comply with the terms of such permit, such bond, and this Chapter. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-56. Appeal by Permit Applicant.**

The actions of the City Manager in imposing additional conditions in excess of the minimum conditions required under this Chapter for the issuance of the permit, or the City Manager's denial of the permit application, may be appealed by the permit applicant in public session to the City Council. If an appeal is perfected in accordance with this Section, the permit application, additional conditions received by the City Manager or denial of application shall be forwarded to the Oil and Gas Advisory Board. Within 30 days after receiving the application and conditions, the Oil and Gas Advisory Board shall forward its recommendations, along with the application and conditions to the City Council. In considering the appeal, the burden of proof shall be upon the applicant. Following the appeal, the City Council may sustain the action of the City Manager, reverse same, or impose additional requirements as conditions for issuance of the permit as provided in Sec. 20-70 of this Chapter. The City Council shall have an additional thirty (30) days from the date of filing an appeal to render its decision, which shall be final. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-57. through. 20-67. Reserved.**

**DIVISION D. LEVEL B PERMIT**

**Sec. 20-68. Permit Defined.**

a. Upon receipt of a permit application, the City Engineer shall determine if the application will qualify for a permit issued under this Division.

b. A permit issued under this Section is designated a Level B Permit. To qualify for consideration as a Level B Permit, a proposed well must not potentially penetrate a sour gas formation as defined by the Texas Railroad Commission, the proposed well location must not be in a City park, the proposed well must not be drilled to a formation in excess of twenty thousand feet (20,000') in depth, and one or more of the following criteria prevents consideration as a Level A permit:

1. The proposed well location has five or more habitable structures within a five hundred foot (500') distance of the proposed wellhead location and the applicant has been able to obtain approval of more than 75% of the adjacent surface property owners in accordance with the requirements of Sec. 20-31;

2. The proposed well location is within a five hundred foot (500') distance of any public school or full service hospital;

3. The proposed well location is in the 100 year floodplain;

4. The original application for the well location was qualified for a Level A Permit, but was recommended for processing as a Level B Permit by the City Manager. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-69. Application Requirements.**

An application for a Level B Permit satisfying all of the criteria set out in Sec. 20-70 shall include the following;

1. Information satisfying all the requirements of Sec. 20-30;

2. A detailed site plan including all of the information required for a minimum site plan, but also including specific details as to the projected location of the major components of the drilling site, creeks and other topographic features, adjacent buildings and other structures, including measured distances therefrom, any special flood protection equipment or flow deflectors necessary to deflect flood-carried waters where wells are located in flood plains, and any other surface features reasonably considered necessary by the City Engineer;

3. Appropriate information dealing with projected dust, noise, temporary and permanent fencing, or other similar information dealing with the environmental and nuisance aspects of the application;

4. A specific, detailed location of the exact point where the well will be drilled;

5. Any other information reasonably required by the City Engineer to assure compliance with the requirements of this ordinance. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

#### **Sec. 20-70. Permitting Procedure.**

a. The applicant shall cooperate fully with the City Engineer in providing all information necessary to complete the permit application. Upon completion of the review of the permit application, the City Engineer shall make a recommendation to the City Manager as to whether a Level B Permit should issue. If the City Manager determines that the applicant complies with the provisions of this Chapter, the City Manager shall issue a permit for the drilling and operation of the well. In making this determination, the City Manager may request the recommendation of the Oil & Gas Advisory Board.

b. The City Manager shall act on an application for a Level B Permit within thirty (30) days after all information required for issuance of the permit has been filed with the City Engineer provided that an additional thirty (30) days is permissible if the City Manager has requested recommendation of the Oil and Gas Advisory Board. The thirty (30) day review period shall not begin to run until the applicant has provided the City Engineer with a complete application package, including satisfaction of the requirements of Sec. 20-29 regarding timely posting of the required notice sign.

c. In reviewing the permit application, the City Engineer and the City Manager may consider the past performance of the applicant in compliance with city ordinances regulating oil and gas drilling activity. Should the applicant have a history of poor compliance, such that the City Manager believes that a subsequent permit requires a more intensive site plan, additional conditions, or other similar requirements, then the City Manager may, within ten (10) days of receipt of a completed application, determine that the pending application should require a Level C Permit. On receiving notification of this determination, the applicant may request a recommendation of the Oil & Gas Advisory Board. Processing of the application will be abated for thirty (30) days pending consideration by the Oil and Gas Advisory Board. Thereafter, the permit shall be processed in accordance with the provisions of this Chapter regarding issuance of such permit; the time period for issuance of such a permit shall begin on the date of the City Manager's recommendation or the date of perfection of a permit application for the recommended permit, whichever date shall occur later.

d. Based on the applicant's prior history, the City Manager may also require as a condition of issuance of the permit increased security or insurance coverage in excess of that specified in Sec. 20-32 and Sec. 20-33.

e. The City Manager may impose any special conditions in the permit reasonably considered appropriate to achieve the purposes of this ordinance and to protect the public health, safety, and welfare.

f. The City Manager, upon a finding that the application fails to comply with the requirements of this Chapter, including especially Secs. 20-32 and Sec. 20-33 regarding security and insurance, may deny the permit. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-71. Permit Conditions.**

a. Each Level B Permit issued under this Division shall include the following:

1. By reference have incorporated therein all the provisions of this Chapter with the same force and effect as if this Chapter were copied verbatim in the permit.

2. Specify the well location with particularity to lot number, block number, name of addition or subdivision, or other available correct legal description; provided, however, that the site location and wellhead for the actual drilling of the well shall be specifically set out as shown in the detailed site plan, and there shall be no variation therefrom.

3. Require all drilling activities to be conducted in conformance with the detailed site plan.

4. Require that upon completion of the well, a detailed reclamation plan approved by the City Engineer as part of the permit application be in all things implemented.

5. Specify the term of the permit in conformance with Sec. 20-35.

6. Specify minimum driveway requirements in conformance with the requirements of Sec. 20-11.

7. Specify the total depth to which the well may be drilled, not exceeding the projected depth.

8. Specify that no actual operations shall be commenced until the Permittee shall file and have approved an indemnity bond in the designated principal amount set out in the permit and conditioned as specified in Sec. 20-32.

9. Specify such conditions as are by this Chapter authorized or as are required by the City Manager.

b. The permit shall be in duplicate originals signed by the City Manager, and prior to delivery to the Permittee, shall be signed by the Permittee with one original to be retained by the City and one by the Permittee. When so signed such permit shall constitute the Permittee's drilling and operating license and a contractual obligation of the Permittee to comply with the terms of such permit, such bond, and this Chapter. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-72. Appeal by Permit Applicant.**

The actions of the City Manager in imposing additional conditions in excess of the minimum conditions required under this Chapter for the issuance of the permit, or the City Manager's denial of the permit application, may be appealed by the permit applicant in public session to the City Council. If an appeal is perfected in accordance with this Section, the permit application, additional conditions received by the City Manager or denial of application shall be forwarded to the Oil and Gas Advisory Board. Within 30 days after receiving the application and conditions, the Oil and Gas Advisory Board shall forward its recommendations, along with the application and conditions to the City Council. In considering the appeal, the burden of proof shall be upon the applicant. Following the appeal, the City Council may sustain the action of the City Manager, reverse same, or impose additional requirements as conditions of issuance of the permit as provided in Sec. 20-70. The City Council shall have an additional thirty (30) days from the date of filing an appeal to render its decision, which shall be final. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-73. through 20-83. Reserved.**

**DIVISION E: LEVEL C PERMITS**

**Sec. 20-84. Permit Defined.**

a. Upon receipt of a permit application, the City Engineer shall determine if the application will qualify for a permit issued under this Division.

b. A permit issued under this Division shall be designated a Level C Permit. A well satisfying one or more of the following criteria will be considered for a Level C Permit:

1. The proposed well will penetrate a potential sour gas formation as defined by the Texas Railroad Commission;

2. The proposed well location will be wholly or partially located within a City park;

3. The proposed well location is located near residences or other habitable buildings and the applicant has been unable to obtain permission from at least 75% of the adjacent surface property owners in accordance with the requirements of Sec. 20-31;

4. The proposed well will be drilled to a formation at a true vertical depth in excess of twenty thousand feet (20,000').

5. The permit application is one which would be otherwise qualified for a Level A or Level B Permit, but has been referred by the City Manager for consideration as a Level C Permit. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-85. Application Requirements.**

An application for a Level C Permit satisfying one or more of the criteria set out in Sec. 20-68 shall include the following:

1. Information satisfying all the requirements of Sec. 20-30;

2. A detailed Site Plan including all of the information required for a minimum Site Plan, but also including specific details as to the projected location of the major components of the drilling site, creeks and other topographic features, adjacent buildings and other structures, including measured distances therefrom, any special flood protection equipment or flow deflectors necessary to deflect flood-carried waters where wells are located in flood plains, and any other surface features deemed necessary by the City Engineer;

3. Appropriate information dealing with projected dust, noise, temporary and permanent fencing, or other similar information dealing with the environmental and nuisance aspects of the application;

4. A specific, detailed location of the exact point where the well will be drilled;

5. If the applicant must obtain a Level C Permit because the applicant has failed to obtain at least 75% approval of adjacent property owners as required by Sec. 20-30, then the application must include a detailed description of the applicant's efforts to obtain such permission, and a detailed statement of objections raised by adjacent property owners to the drilling of the well;

6. If the applicant must obtain a Level C Permit because the objective of the well is the penetration of a potential sour gas formation as defined by the Texas Railroad Commission, the application must include specific details relating to the drilling formation the applicant seeks to penetrate, detailed safety methods to be used in the drilling and operation of the well to prevent release or escape of noxious fumes or dangerous gases, information to delineate anticipated impacted areas and the level of impact should an accident occur which would allow the escape of sour gas, and an emergency response and evacuation plan;

7. If the applicant must obtain a Level C Permit because the objective of the well is the penetration of a potential sour gas formation as defined by the Texas Railroad Commission, the applicant must include on the sign required under Sec. 20-29 information advising that a permit for a sour gas well is pending.

8. If the applicant must obtain a Level C Permit because the drilling site will be located wholly or partially in a City park, the applicant must include a detailed site restoration plan delineating re-vegetation of the park property, screening, appropriate environmental controls, and other requirements as deemed appropriate by the City Engineer;

9. Any other information reasonably required by the City Engineer to assure compliance with this ordinance. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

#### **Sec. 20-86. Permitting Procedure.**

a. The applicant shall cooperate fully with the City Engineer in providing all information necessary to complete the permit application. Upon completion of the review of the permit application, the City Engineer shall make a formal written recommendation to the City Council, and if the application is for a drilling location in a City park, to the City Parks & Recreation Board as to whether or not a Level C Permit should issue. The City Engineer shall make said recommendation within thirty (30) days after all information required for issuance of the permit has been filed with City Engineer. The thirty (30) day review period shall not begin to run until the applicant has provided the City Engineer with a complete application package,

including satisfaction of the requirements of Sec. 20-29 regarding timely posting of the required notice sign. The application shall also be referred to the Oil and Gas Advisory Board at the same time that the recommendations are delivered to the City Council.

b. If the application proposes a drilling site location located wholly or partially within a City park, and following the review and recommendation process by the City Engineer, the permit application shall then be considered by the Parks & Recreation Board. The Parks & Recreation Board will conduct at a public meeting a review of the potential impact of the application on the City park property, soliciting information from the permit applicant and from those interested citizens or other parties which the Parks & Recreation Board deems appropriate. The Parks & Recreation Board shall review the application within a thirty (30) day period following receipt of the City Engineer's recommendation, and shall then make a recommendation to City Council for its consideration.

c. Upon receipt of the recommendations from the City Engineer, or in the case of an application for a well site located wholly or partially in a City park, upon receipt of the recommendation from the Parks & Recreation Board, the City Council shall hold a public hearing to consider such application. Provided all other notice requirements as set out herein are satisfied, said public hearing may be conducted as part of a regularly scheduled City Council meeting.

d. Any well application which has progressed to the point of consideration by City Council must be accompanied by an additional non-refundable fee of seven hundred fifty dollars (\$750.00) payable to the City.

e. At least twenty (20) days and no more than thirty (30) days precedent to any such public hearing before City Council, the applicant at applicant's expense shall publish notice of the hearing in a local newspaper acceptable to the City. The substance of the notice and the procedure for publishing same shall be approved by the City prior to publication. The applicant shall obtain a certificate of publication from the newspaper following publication of the notice.

f. At least twenty (20) days prior to the hearing, the applicant shall by certified mail, return receipt requested, give notice of the hearing to the following persons:

1. If the applicant must obtain a Level C Permit because the applicant has failed to obtain at least 75% of the approvals of adjacent surface property owners as required under Sec. 20-31, then the applicant shall give notice of the hearing to all owners or representatives of owners of the residences and commercial buildings located within three hundred feet (300') of the proposed well;

2. All other applicants for Level C Permits shall give notice of the hearing to all property owners located within five hundred feet (500') of the proposed well.

Mail notices as required herein shall be served by depositing same with the United States Post Office, properly addressed and postage prepaid, certified mail, return receipt requested, to the address of each owner shown on the last approved City tax roll, or such other alternative address as shall be made known to the applicant. The applicant shall likewise post a sign on the drill site premise giving twenty (20) days advance notice of the hearing. The notice sign shall be posted in a manner similar to and shall bearing lettering comparable to that sign required by Sec. 20-29 of this Chapter.

g. During the initial portion of the public hearing, and before the City Council may consider the merits of the applicant's permit application, the applicant shall provide evidence to the satisfaction of the City Council of the following:

1. In the case of an applicant who is required to obtain a Level C Permit because the applicant has failed to obtain at least 75% approval of adjacent property owners as required under Sec. 20-31, that the applicant has made a good faith, bona fide attempt and offered to obtain written permission from each and all of the owners of any residential or commercial buildings located within three hundred feet (300') of the well;

2. Certificate of publication establishing timely publication of the notice of hearing as required herein;

3. That timely notice of the hearing was given to all persons as required in Sec. 20-85f;

4. That the applicant has otherwise complied with all other requirements of Code Chapter 10, including compliance with the financial and technical requirements stated therein;

5. That the applicant has an acceptable record of voluntary compliance with the terms of the City's oil and gas drilling ordinances for past drilling operations.

6. Recommendations of the Oil & Gas Advisory Board.

h. The burden of proof of all matters considered in the hearing shall be upon the applicant.

i. Following such public hearing, the City Council may refuse any application for a Level C Permit to drill and operate such a well within the City limits considering the character and value of the permanent improvements already erected on or adjacent to the particular location in question, and the use to which the land and surroundings are adapted, because of the applicant's prior poor compliance with the City's ordinances, or because of the fact that the well location would impose an unreasonable burden or for health or safety reasons, or for a composite of any of these reasons, or others, the drilling or operation of such well in the particular location might be injurious or a disadvantage to the City or to its inhabitants, especially adjacent property owners; or the City Council may grant a permit upon such terms as the City Council determines to be necessary to protect the public health, safety, and welfare. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

#### **Sec. 20-87. Permit Conditions.**

If the permit is approved by the City Council, the Permittee shall comply with any special conditions that the City Council shall reasonably require as a condition of approval, including those conditions required for the issuance of a Level B Permit and any other special conditions, including, but not limited to:

1. Well safety;

2. Noise;

3. Access;

4. Site configuration;
5. Site screening;
6. Well construction procedures and time of completion;
7. Well maintenance;
8. Site maintenance;
9. Site safety and appearance;
10. Additional security in the form of bonds or other security as provided in Sec. 20-32;
11. Additional insurance as provided in Sec. 20-33;
12. Use and disposal of drilling fluids;
13. Site reclamation;
14. Well/site abandonment. (Ord. No. 0-2000-86, 11/1/00) ((0-2008-45, 3/26/08)

**Sec. 20-88. through 20-98. Reserved.**

## **DIVISION F. REQUIREMENTS FOR OPERATING WELLS**

### **Sec. 20-99. Well Operation.**

For purposes of this Division, a well shall be considered operating unless the well has been plugged and abandoned and a copy of the appropriate Railroad Commission form certifying plugging and abandonment is filed with the City. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

### **Sec. 20-100. Annual Requirements.**

a. The operator of an operating well inside the City shall file annually with the City Engineer the following information:

1. Name, address, phone number, and emergency phone number of the owner, operator, or other person responsible for the well;
2. Railroad Commission designation and serial number for said well;
3. Exact location of said well, identified by reference to adjacent streets and block number and by use of an attached map;
4. Nature, type (oil or gas or both), and age of the well, and any unique features of same;

5. General description of the well-associated equipment, including pumper, evaporator, condensate tank, condensers, storage tanks, compressors, and the like;

6. Any other information desired or deemed reasonably required by the City Engineer.

7. Twenty dollar (\$20.00) annual fee. (If requested by the Operator, the City may annually bill for the fee.

(Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-101. Reserved.**

**Sec. 20-102. Inspections Authorized.**

The City Engineer is hereby authorized to perform inspections of all well sites within the City limits, to identify any safety hazards, nuisances, or other problems related to such wells. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-103. Minimum Safety Requirements.**

To protect the public health, safety, and welfare, the following safety standards shall apply to all operating oil and gas wells within the City:

1. Each well located within one hundred fifty feet (150') of a habitable structure, including, but not limited to, residences, schools, churches, commercial and retail establishments, and industrial sites, or within one hundred fifty feet (150') of any dedicated thoroughfare, shall have the wellhead, pumping mechanism, condensate tank, storage tank, and compressor fully enclosed with a fence and associated locked gate conforming to the fencing requirements in Sec. 20-10.

2. Each well classified as a Level B or Level C well shall be fitted with an operational high/low safety shut-in device maintained in working condition.

3. Each well shall be fitted with a shutoff valve or switch as provided in Sec. 20-16.

4. Each well shall have posted at a prominent point on the well site, a sign bearing the name and address of the owner or operator of the well and the emergency telephone number whereby the owner or operator of the well can be contacted twenty-four (24) hours per day regarding any emergency condition existing on the well site as provided in Sec. 20-15 of this Chapter. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-104. Notice to City Engineer.**

The operator will notify the City Engineer 24 hours in advance of any re-completions or major stimulations of existing wells. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-105. through 20-115. Reserved.**

**DIVISION G. COMPLIANCE**

**Sec. 20-116. Use of Security.**

The City Manager is hereby authorized, following such reasonable notice to Permittee under this Chapter as the City Manager shall determine is justified based on the individual circumstances and consideration of public health, safety, and welfare, to apply the proceeds of any security posted by a Permittee to the cost of curing any condition or circumstance of noncompliance with respect to a permit issued under this Chapter. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-117. Revocation or Suspension.**

The City Council at any public meeting thereof, may, after ten (10) days notice has been given to the Permittee that revocation or suspension is to be considered at such meeting, revoke or suspend any permit issued under this Chapter and under which drilling or producing operations are being conducted, if the Permittee thereof has violated any provisions of the permit, bond, or this Chapter. If the permit is revoked or suspended, the Permittee may make application to the City Council for a reissuance of such permit, provided said applicant has cured any and all violations which led to the suspension or revocation. Revocation of any permit under this section shall be in addition to the penalties prescribed for the violation involved. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**Sec. 20-118. Creation of the Oil & Gas Advisory Board.**

a. There is hereby created the Oil & Gas Advisory Board composed of five (5) members. Two (2) members shall be realtors or real estate developers; two (2) members shall be Oil or Gas operators or be employed in the Oil & Gas industry; one member shall be selected from the City at large.

b. The City Attorney or designee shall serve as Secretary, provide the Board with all information necessary for performance of its duties, and keep a record of all transactions.

c. Advisory Board functions are as follows:

1. Make recommendations to the City Council concerning requests for oil and gas leases.

2. Make recommendations to the City Council or City Manager concerning any oil and gas permit application or proposed terms of regulations to be applied in a proposal permit for drilling or operating an oil and gas well or construction oil or gas production facilities.

3. Inform the City Manager of any failure by the City Engineer to carry out any orders or policies adopted by the City Council. (Ord. No. 0-2000-86, 11/1/00) (0-2008-45, 3/26/08)

**PART 2:** That Tyler City Code Chapter 10, “Planning and Zoning”, Article VII, “Cotton Belt Route Train Depot”, is hereby removed from Chapter 10 and placed in Chapter 12 as Article VII, “Transit” to read as follows:

**ARTICLE VII. TRANSIT**

**Sec. 12-101. Cotton Belt Depot Vaughn Room charges.**

The rates and charges for the use of the Vaughn Room at the Cotton Belt Route Train Depot facilities are provided in this section. All such rates and charges shall be paid in advance. The rates shall be determined in the accordance with the following:

a. Room size: 0 to 35 people

b. Weekday hours: 8:00 a.m. to 5:00 p.m.

Rental fee:

Minimum of two (2) hours rental	\$20.00
For each additional hour	\$10.00

c. Weeknights: 5:00 p.m. to 10:00 p.m.

Weekends: Friday at 1:00 p.m. to Sunday at 10:00 p.m.

Rental Fees:

Minimum of two (2) hours rental	\$30.00
For each additional hour	\$15.00

d. Any portion of an hour will be charged an additional fee.

e. If Lessee alters reservations, times, dates, etc., so as to require new paperwork  
Additional \$10.00

f. Damage Deposit \$150.00 to \$300.00

(Ord. No. 0-2003-62, 11/26/03) (Ord. No. 0-2005-79, 9-28-05) (0-2008-45, 3/26/08)

#### **Sec. 12-101. Tyler Transit monthly bus passes.**

There are hereby established monthly bus passes that would allow customers to ride Tyler Transit buses an unlimited number of times for a 30-day period for one fare. The rates for monthly bus passes issued by Tyler Transit are provided in this section. The rates shall be determined in accordance with the following:

a. Regular rate. \$30.00 per 30 days.

b. Half-fare rate for persons with disabilities who are certified in the Tyler Transit system and who have an identification card, as well as citizens 65 years of age or older: \$15.00 per 30 days. (Ord. No. 0-2005-79, 9-28-05) (0-2008-45, 3/26/08)

#### **Sec. 12-102. Tyler Transit fees. (Reserved)**

(0-2008-45, 3/26/08)

**PART 3:** That Tyler City Code Chapter 12, "Airport" is hereby amended by changing the name of the Chapter 12 to "Airport & Transit"; amending Chapter 12, Article III, "Commercial Activities" by renaming it to "Article III, Airport Commercial Activities" ; and amending Chapter 12, Article VI, "Passenger Facilities Charges" by renaming it to "Article VI, Airport Passenger Facility Charges" and reserving Sections 12-65 to 12-99.

**PART 4:** That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

**PART 5.** That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be March 28, 2008.

**PASSED AND APPROVED** this 26th day of March, A. D., 2008.

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JOSEPH O. SEEBER, , MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
CITY ATTORNEY