

ORDINANCE NO. 1991

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, REGULATING DRILLING OPERATIONS AND SURFACE MINING OPERATIONS IN THE CITY OF TERRELL; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

I.

DRILLING OPERATIONS

Section 1. Purpose; findings of fact.

WHEREAS the City Council of the City of Terrell, Texas, hereby legislatively finds and determines that drilling operations for the exploration for and/or production and removal of oil, gas or liquid or gaseous hydrocarbon minerals should be restricted or regulated because of the fire safety hazards to buildings, structures and improvements within the city created by such operations, and because of the very real potential for injury to persons and damages to property and the endangerment of the health, safety and welfare of the public in general created by such operations. The police power of the state, which is delegated to cities by law, should be, and is hereby, invoked in aid of the enforcement of this article.

Section 2. Well location restrictions.

No oil, gas or other liquid or gaseous hydrocarbon mineral well shall be drilled at any location nearer than fifteen hundred (1,500) feet from any building or structure (residential, commercial or other) used or intended for use for human occupancy (provided that this restriction shall not apply to temporary or portable buildings to be occupied solely by persons directly engaged in our performing such drilling operations) not nearer than five hundred (500) feet to the adjoining boundary line of any adjacent lot, tract of land or street or highway.

Section 3. Compliance with applicable legal regulations.

Any person engaging or participating in the drilling of any oil, gas or other liquid or gaseous hydrocarbon mineral well under authority of this article shall comply in all respects with any and all applicable laws and regulations, whether federal, state, city or other regulatory entity.

Section 4. Sanitation.

The tract of land upon which any well is drilled under permit issued under the article shall be kept in a clean and sanitary condition, and the permittee shall take all necessary precautions to prevent any mud, wastewater, oil, slush or other waste matter from flowing from the well or the tract of land upon which same was located into any street, alley or adjacent property.

Section 5. Violation; penalty.

Any person who violates or fails to comply with any provision of this article shall be guilty of a misdemeanor and, upon conviction, fined not more than two hundred dollars (\$200.00), and the violation of each separate provision of this article shall be considered a separate offense, and each day of continued violation or noncompliance with any provision of this article shall be considered noncompliance with any provision of this article shall be considered a separate offense. The violation or failure to comply with any provision of this article shall be grounds for the revocation by the city council of any well permit previously issued under authority of this article.

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PERMIT Section 1. Required.

It shall be unlawful for any person, acting either for himself or as an agent, employee or independent contractor of any other person, corporation, company or entity, to drill, or commence or continue to drill any oil, gas or liquid or gaseous hydrocarbon mineral well in the city without having first obtained a permit from the city for such well. For purposes of this article, oil, gas or other liquid or gaseous hydrocarbon mineral well is defined as any hole, excavation or boring downward into the surface or subsurface of the earth, by any means or manner, for the purpose of exploring for, discovering, producing, injecting or removing any oil, gas or other liquid or gaseous hydrocarbon minerals.

Section 2. Application.

A separate written application shall be required for each proposed oil, gas or other gaseous hydrocarbon mineral well, and such application shall include the following:

- (1) Name of applicant
- (2) Address of applicant
- (3) Proposed site of well, including accurate description of tract of land upon which well -is proposed and showing proposed location of well with relationship to boundary lines of tract an any existing building and structures located upon the subject tract of land and other tracts of land immediately adjacent thereto.
- (4) Detailed description of proposed operation, including operating pressures of all proposed facilities and pipelines.
- (5) Proposed location upon subject tract of all equipment and facilities to be used in connection with the proposed well.

Section 3. Filing Fee.

Every application for a permit to drill any oil, gas or other liquid or gaseous hydrocarbon mineral well shall be accompanied by a filing fee of one thousand dollars (\$1,000.00) in the form of cash, bank

money order or cashier's check payable to the City of Terrell, which fee is hereby determined to be reasonable and necessary to defray investigation of the proposed well and inspection of the proposed premises and the facilities concerning the protection of the public health, safety and welfare.

Section 4. Bond; insurance required of permittee.

Any permittee of any permit under this article shall, prior to the commencement of any drilling or related operations, file with the city secretary a bond executed by permittee as principal and by a good and sufficient corporate surety company, which bond shall provide that the principal will remedy any and all damages to streets, curbs, gutters and other public or private property of any kind or character resulting from any drilling or related activity. Additionally, any person granted a permit under this article shall maintain workers, compensation insurance covering all of their employees, agents and contractors, and shall also maintain general public liability insurance sufficient to protect all persons from injury, death or damages arising out of or connected with any drilling or related activity, such general public liability insurance to be in limits of not less than one million dollars (\$1,000,000.00) for each person, twenty-five million dollars (\$25,000,000.00) in the aggregate, and one million dollars (\$1,000,000.00) property damages for each accident, and proof of such insurance shall be filed with the city secretary prior to any drilling activities.

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Section 5. Issuance or denial of permit.

After receiving any application for a permit to drill and operate any oil, gas or liquid or gaseous hydrocarbon mineral well, and after the city administrative staff has had sufficient time to investigate and inspect the proposed well sit and surrounding property and obtain any additional information needed from the applicant, the city council shall conduct a public hearing to consider the issuance or denial of any permit. The applicant, the owner or occupant of any property adjacent to the tract of land upon which the will is proposed as well as any other interested person, shall have the right to appear and be heard at said public hearing with regard to whether the requested permit should be issued or denied. The city council shall deny any requested permit for the drilling or operation of any well which does not comply with all of the provisions of this article or would not be in compliance with any other applicable law or regulation, whether federal, state, city or other regulatory entity; provided, however, the city council, may, after public hearing, issue a permit to drill and operate an oil, gas or liquid or gaseous hydrocarbon mineral well for a site not meeting the location requirements upon the **finding and determination** by the city council that strict compliance with said location requirements impose ail unreasonable requirement as to the specific application for permit and that sufficient safeguards exist, or may be imposed, so as to reasonably assure that the objectives of this chapter will be met and that the health, safety and welfare of the owners of the property adjoining are near the site and of the public generally will be protected.

Additionally, the city council may refuse any permit to drill a well if, by reason of such particular location and the character and value of the permanent improvements already erected on or adjacent to

the particular location in question, or for school, hospital, park or civil purposes, or for health reasons or safety reasons, or for any of said reasons or similar reasons the drilling of the proposed well on the proposed location might be injurious or be a disadvantage to the city or its inhabitants as a whole or to a substantial number of its inhabitants or would not promote orderly growth and development of the city.

Section 6. Imposition of special requirements.

With regard to any permit for the drilling of a well under this article, the city council may impose special restrictions, conditions or limitations as it deems necessary in order to protect the health, safety and welfare of the adjoining property and the city as a whole including, but not limited to, hours and times for operation, hours and times for delivery or removal of equipment or supplies or materials to and from the site, screening, fencing or special enclosure, landscaping, and drainage facilities.

**III.
SURFACE MINING OPERATIONS
GENERALLY**

Section 1. Purpose; findings of fact.

The city council of the City of Terrell hereby legislatively finds and determines that land surface mining operations involving the excavation of the surface of land for the exploration for and/or production and removal of minerals should be restricted and regulated because of the attendant noise and dust associated with such mining or evacuation operations have a detrimental effect upon the health and welfare of persons living or working nearby and such mining and excavation operations create an attractive nuisance to children and constitute a danger thereto, and such mining and excavation operations are detrimental to the property values of the property nearby. The police power of the state, which is delegated to cities by law, should be, and is hereby, invoked in aid of the enforcement of this article.

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Section 2. Location restrictions.

No surface mining or excavation operation shall be done nearer than fifteen thousand (1500) feet from any building or structure (residential, commercial or other) used or intended for human occupancy (provided that this restriction shall not apply to temporary or portable buildings to be occupied solely by persons directly engaged in or performing such surface mining or excavation operations), nor nearer than five hundred (500) feet to the adjoining boundary line of any adjacent lot, tract of land or street or highway.

Section 3. Compliance with applicable legal regulations.

Any person engaging in or participating in any surface mining or excavation operation in the city shall comply in all respects with any and all applicable laws, and regulations, whether federal, state, city or other regulatory entity.

Section 4. Noise and dust control.

Any permittee any permit under this article shall take all reasonable precautions to minimize the noise and dust emission from the site.

Section 5. Penalties for violations

Any person who violates or fails to comply with any provision of his article shall be guilty of a misdemeanor and, upon conviction, fined not more than two hundred dollars (\$200.00), and the violation of each separate provision of this article shall be considered a separate offense. The violation or failure comply with any provision of this article shall be grounds for the revocation by the city council of any permit previously issued under authority of this article.

**IV.
PERMIT**

Section 1. Required.

It shall be unlawful for any person , acting either for himself or as an agent, employee or independent contractor of any other person, corporation, company or entity , to engage in or perform any mining or excavation operations or activities involving the excavation of the surface of any land within the city for the purpose of exploring for and/or producing or removing of any minerals ordinarily extracted from the earth by surface mining operations including, but not limited to, iron ore, iron ore gravel, rock, coal, sand, limestone, lignite, uranium or similar minerals, without having first obtained a permit from the city for such surface mining or excavation operation.

Section 2. Application.

A separate written application shall be required for each proposed site for surface mining or excavation operations described in section 1. Above, and such application shall include the following:

- (1.) Name of applicant.
- (2.) Address of applicant.
- (3.) Proposed surface mining or excavation site, including accurate description of tract of land upon which such surface mining or excavation operations is proposed, and showing the boundaries of the tract of land and any existing buildings and structures located upon the subject tract of land and other tracts of land immediately adjacent thereto.
- (4.) Detailed description of the proposed surface mining or excavation operations.

Section 3. Filing fee.

Every application for a permit for any surface mining or excavation operation shall be accompanied by a filing fee of one thousand dollars (\$1,000.00) in the form of cash, bank money order or cashier's check payable to the city, which fee is hereby determined to be reasonable and necessary to defray investigation of the proposed surface mining or excavation operation and the inspection of the proposed premises and facilities.

Section 4. Bond and insurance.

Any permittee of any permit under this article shall, prior to the commencement of any surface mining or excavation operations, file with the city secretary a bond executed by a permittee as principal and by a good and sufficient corporate surety company, which bond shall provide that the principal will remedy any and all damages to streets, curbs, gutters, and other public or private property of any kind or character resulting from any surface mining or excavation operation activity. Additionally, any person granted a permit under this article shall maintain workers, compensation insurance covering all of their employees, agents and contractors, and shall also maintain general public liability insurance sufficient to protect all persons from injury, death or damages arising out of or connected with any surface mining or excavation operation activity, such general public liability insurance to be in limits of not less than one million dollars (\$1,000,000.00) for each person, twentyfive million dollars (\$25,000,000.00) in the aggregate, and one million dollars (\$1,000,000.00) property damage for each accident, and proof of such insurance shall be filed with the city secretary prior to the commencement of any such surface mining or excavation operations.

Section 5. Issuance or denial of permit.

After receiving any application for a permit to engage in any surface mining or excavation operation and after the city administrative staff has had sufficient time to investigate and inspect the proposed mining or excavation site and surrounding property and obtain any additional information needed from the applicant, the city council shall conduct a public hearing to **consider the issuance or denial of any** permit. The applicant, the owner or occupant of any property adjacent to the tract of land upon which the mining or excavation operation is proposed, as well as any other interested person, shall have the right to appear and be heard at said public hearing with regard to whether the requested permit should be issued or denied. The city council shall deny any requested permit for any surface mining or excavation operation which does not comply with all of the provisions of his article or would not be in compliance with any other applicable law or regulation, whether federal, state, city or other regulatory entity. Additionally, the city council may refuse any permit for any surface mining or excavation operation if, by reason of such particular location and the character and value of the permanent improvements already erected on or adjacent to the particular location in question, or for school, hospital, park or civic purposes, or for health reasons or safety reasons, or for any of said reasons or similar reasons, the proposed mining or excavation operation on the proposed site might be injurious or be a disadvantage to

the city or its inhabitants as a whole or to a substantial number of its inhabitants or would not promote orderly growth and development of the city.

Section 6. Imposition of special requirements.

With regard to any permit or any surface mining or excavation operation under this article, the city council may impose special restrictions, conditions or limitations as it deems necessary in order to protect the health, safety and welfare of the adjoining property and the city as whole including, but not limited to, hours and times for operation, hours and times for delivery or removal of equipment to and from the site, screening, fencing or special enclosures, and drainage facilities.

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V.

The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance.

This ordinance shall take effect on final passage.

PASSED AND ADOPTED THIS 5th day of October, 1999.

PASSED AND ADOPTED THIS 19th day of October, 1999.

HENRY C. MADGWICK SR., MAYOR

ATTEST:

JOHN ROUNSAVALL, CITY SECRETARY

APPROVED AS TO FORM:

MARY GAYLE RAMSEY, CITY ATTORNEY