

Copy to: Building Dept.
PC & ARB
Fire Dept. & Service Div
CITY OF BROADVIEW HEIGHTS

ORDINANCE NO. 18-98

INTRODUCED BY MAYOR AND ENTIRE COUNCIL

AN ORDINANCE AMENDING CHAPTER 824
OF THE CODIFIED ORDINANCES OF BROADVIEW HEIGHTS, OHIO
WITH RESPECT TO THE REGULATION OF OIL AND GAS WELLS
IN THE CITY OF BROADVIEW HEIGHTS
AND DECLARING AN EMERGENCY

WHEREAS, the City of Broadview Heights previously enacted Ordinances 76-84 and 63-85 with respect to the regulation of oil and gas wells in the City of Broadview Heights, Ohio, such ordinances codified as Chapter 824 in the Codified Ordinances of Broadview Heights, Ohio; and

WHEREAS, the City Council deems it in the best interest of the City to revise said ordinances in part to provide for the proper regulation of oil and gas wells in the City of Broadview Heights, Ohio.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROADVIEW HEIGHTS, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. New Chapter 824 of the Codified Ordinances of Broadview Heights, Ohio with respect to the regulation of oil and gas wells in the City of Broadview Heights be and is hereby adopted, said new chapter attached hereto as Exhibit "A" and made a part hereof as if fully rewritten herein.

SECTION 2. Prior Chapter 824 of the Codified Ordinances of Broadview Heights, Ohio be and is hereby repealed.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, peace, safety and welfare for the reason stated in the Preamble hereof, and provided it receives the affirmative vote of six or more of the members of Council and signature of the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: Feb. 2-98

Bill G. Lento
PRESIDENT OF COUNCIL

DATE FILED
WITH MAYOR: Feb. 3-98

APPROVED: Leo H. Bender
LEO H. BENDER, MAYOR

ATTEST: Sandra Hudack
CLERK OF COUNCIL

DATE APPROVED: 2-3-98

EXHIBIT "A"

CHAPTER 824
Oil and Gas Wells

824.01 PERMIT REQUIRED.

No person, partnership, corporation or other legal entity shall drill a well for oil or gas, or deepen an existing well for oil or gas, or carry on such development within the City, without first obtaining a permit therefor from the Mayor, as provided in this chapter.

824.02 APPLICATION FOR PERMIT; FEE.

Permits required by Section 824.01 may be obtained by making application therefor to the Mayor upon such forms as he or she may prescribe. Such application shall be accompanied by a nonrefundable fee of five thousand dollars (\$5,000). A separate application and fee shall be filed and paid for each well contemplated.

824.03 MAP AND SPILL PREVENTION PLAN.

At the time of the application for the permit required by Section 824.01, the person owning or leasing property for the purpose of drilling oil or gas thereon shall provide a map prepared by a registered surveyor at the time of making the application, showing the exact location, by address, where the proposed well is to be drilled. Where no address is assigned, the permanent parcel number and the nearest Municipal address to the drilling site shall be set forth. The map should also identify the location, type and size of proposed pipeline, either above or below ground, and any structure within 300 feet of the well location. Additionally, the map shall indicate the location of all power shut-offs together with a detailed description of the operation of the same, the location of all transmission lines, the location of oil flow shut-offs together with a detailed description of the operation of the same, and the location of any access roads and roads to the well and tank site locations. Any amendment to this map shall be immediately filed with the Building Commissioner. If the permit is granted, the map shall remain on file with the City Engineer. Amendments to the map require the approval of the permit authority.

Within thirty days of completion of the well, a spill prevention plan must be in effect in accordance of the laws of the State and must be on file at the City Hall and the Fire Chief's office.

824.04 LANDSCAPE PLAN REQUIRED.

A detailed landscape plan shall be provided. The plan shall graphically depict all pipelines, tanks and other structures as well as proposed landscape features to adequately screen them from public view. This landscape plan will be presented to the Architectural Review Board for approval prior to issuance of the permit.

824.05 PERFORMANCE STANDARDS.

All oil and gas activities shall be conducted pursuant to Ohio Revised Code Chapter 1509, as amended and any administrative regulations promulgated thereunder, and pursuant to the provisions of this chapter, to ensure the public health, safety and general welfare. In case of a conflict between said administrative regulations and the regulations herein, the more restrictive regulation shall prevail.

- (a) Storage tanks, separators and well installations shall be entirely enclosed by a minimum eight-foot high chain link-type fence, with three strands of barbed wire above such fence, which fence and barbed wire shall be installed within six weeks after fracturing or completing the well or within six months after commencement of drilling, whichever occurs first.
- (b) All hatch lids eight inches in diameter or larger must be equipped with a wire insert to prevent accidental entry into such tanks.
- (c) No waste, sludge, water or effluent of any kind shall in any manner be emptied or drained into any storm drainage course or sanitary sewer or otherwise disposed of so as to cause any pollution of the waters or land of the City or create an environmental hazard. After any spill, leak or malfunction, the responsible party shall remove or cause to be removed to the satisfaction of the Building Commissioner all oil and waste materials from any public or private property affected by such spill, leak or malfunction. The responsible party shall also be liable for any and all damage to Municipal utility services and for any extraordinary expense incurred by the City regarding the use of safety forces at an emergency caused by the drilling operation.
- (d) All pits used in the drilling and fracturing process shall be constructed and adequately lined so as to prevent ground absorption of any waste, brine, sludge, oil, oil byproducts or any other substance that is harmful or deleterious to the environment. All pits must be maintained with watertight integrity and must be nonleaking. Within forty-five days of the completion of the well, all substances contained in such pits shall be completely removed and safely disposed of and all pits shall be filled, leveled and landscaped.
- (e) Prior to the commencement of the drilling operation and prior to the installation of any tank, the permit holder shall provide ingress and egress roads to all well sites. All roads to tank sites shall be constructed of asphalt or concrete and shall be maintained in good condition, free of mud and dust. Should mud or other materials be carried onto any public street, the permit holder shall immediately remove the same from such street to the satisfaction of the Director of Public Service. Compliance with this

subsection shall be verified by the Director prior to any equipment for drilling being placed on the premises.

- (f) The permit holder shall notify the Police Department prior to moving the drilling rig onto or off the well site.
- (g) No drilling site, storage tank or other equipment shall be located within 600 feet of any habitable building in a commercial or industrial zoning district or within 600 feet of any other zoning district. No drilling site may be within 150 feet of any dedicated street or railroad right of way. For good cause shown, the Council may approve a drilling site, storage tank or other equipment located within a lesser distance than those delineated herein if the Council finds that such modified location will not adversely effect the public health, safety and welfare.
- (h) Only fluid rotary-type drilling rigs sufficiently muffled against noise emissions shall be used in drilling operations.
- (i) All storage tanks and/or separators shall be diked in accordance with the requirements of the National Fire Codes as adopted by the City in Chapter 1602 of the Fire Prevention Code. Dikes are to be maintained during the entire time period of well construction and subsequent operational phases.
- (j) Tanks used in the storage of oil or water may not exceed ten feet in height or 140 barrels in capacity and are to be painted in a color approved by the Building Commissioner so as not to contrast with the surrounding environment. Not more than one oil or gas storage tank per well site shall be permitted (one tank for oil and one tank for brine).
- (k) All gates are to be padlocked with a copy of the key given to the Fire Chief and the Police Chief. All oil and water lines with valves extending beyond the chain link fence shall be locked and capped.
- (l) Emergency telephone numbers of gas and oil well operators shall be made available to the Police Chief and the Fire Chief in the event an emergency occurs at the well site. Answering services are not acceptable. Any cost incurred due to the unavailability of a well operator in the case of an emergency condition where professional outside assistance is required shall be the responsibility of the well operator.
- (m) After the issuance of a permit to drill, and again after completion of the project, the Director of Public Service, a Council representative of the Street Committee, the City Engineer and the driller shall inspect the public roads that may service the heavy equipment. The driller shall be held responsible for any road damage, and a cash bond determined by the City Engineer shall be posted in advance of equipment being placed on the premises.

824.06 INVESTIGATION OF APPLICATION; ISSUANCE OF PERMIT.

The Mayor shall refer each application for a permit required by Section 824.01 to Council. Council shall forward the application to the Planning Commission which shall investigate the premises for which such permit is sought and which shall hold a public hearing thereon. The Commission shall send a notice of the hearing by regular mail to all property owners within a 500-foot radius of the property proposed as a drilling site. When the Commission completes its investigation, the application and the report of the Commission shall be forwarded to Council for its consideration. If the same are found to comply in all respects with this chapter, Council shall recommend the granting of the permit; otherwise, it shall recommend rejection of such application. The Mayor shall issue or reject the permit upon the recommendation of Council within ten days of such recommendation.

824.07 INSURANCE; INDEMNIFICATION.

The applicant shall provide with his, her or its application proof of insurance. Insurance must be to the extent of one million dollars (\$1,000,000) per person for general liability and personal injury with an aggregate per incident limit of three million dollars (\$3,000,000), and one million dollars (\$1,000,000) for property damage to any one person with an aggregate per incident limit of three million dollars (\$3,000,000). Such insurance policies shall insure the City and any person suffering any personal injury or property damage as a result of the drilling or operation of the well. Such policies shall be in full force and effect prior to issuance of a permit and shall continue in effect until the well is plugged or abandoned as hereinafter provided. Current proof of insurance coverage shall always be provided the City. Further, the applicant, by submitting an application for a permit under this chapter, shall be considered to agree to hold the City harmless from any loss, claim, demand or cause of action, including reasonable attorney's fees and costs of suit, and to indemnify the City for the same, in the event the same is brought against the City as a result of any activity engaged in by the applicant or his, her or its contractors in the furtherance of the drilling, operation or abandonment of the gas or oil well in the City. The clerk in the Building Department shall retain a file on all insurance policies. The responsible party shall be notified if a policy is not current or in effect.

824.08 DUTIES OF PERMITTEE.

The owner of the property, the drilling company and the operation company shall be equally liable and responsible for complying with this chapter. The permittee shall observe all Federal, State and Municipal law relative to the drilling and operation of oil and gas wells. The permittee shall also restore to their former condition the streets, sidewalks and other public places which may be disturbed or damaged as a result of the operation and shall clear the area of all litter, machinery, derricks, buildings, oil and other substances erected, used or allowed in the drilling or production operation, except as may be

there for the proper drilling or operation of the well, within thirty days after completion of the drilling site. The permittee shall pay to the owner of any building, improvement, goods or chattels located contiguous to the property upon which the well is located, any extra cost of insurance on such building, improvement, goods or chattels which is imposed by reason of the granting of the permit and the operations conducted thereunder.

824.09 EFFECTIVE PERIOD OF PERMITS; RENEWAL; FEE.

The effective period of a permit issued under this chapter, and of all rights and privileges granted in or under authority of this chapter, shall not exceed twenty years from the date of issuance of such permit. At the end of such twenty-year period, if the well is still in operation and the permittee is not in violation of any Federal, State or Municipal law relative to the drilling and operation of oil and gas wells, the Mayor, upon recommendation of Council, may renew such permit upon proper application and payment of a reasonable permit fee to be determined by the City at time of renewal.

824.10 PERMIT LIMITATIONS; TERMINATION OF PERMITS.

No permit shall be issued for the drilling of a well upon ground owned by the applicant or held by the applicant under an oil and gas lease or drilling contract from the owner, except by separate written permission of the owner thereof, and nothing contained herein, nor any permit issued hereunder, shall be deemed to grant any right or license to a permittee to enter upon or occupy in any respect, in drilling or production operations, any land except by the written permission of the owner thereof. When a permit has been issued, the same shall terminate and become inoperative without any action on the part of the City unless within 180 days from the date of issuance of such permit actual drilling of the well has commenced. The cessation of production of oil or gas from the well after production has commenced, except for mandatory shut-ins by a gas purchaser and except for equipment repair, shall operate to terminate and cancel the permit and in such a case, the well shall be condemned or abandoned for all purposes of this chapter and no person shall thereafter drill or operate any such well without the issuance of another permit.

824.11 HOURS AND PERIOD OF OPERATION.

No drilling, tool dressing or any work or labor which causes noise or disturbance, except in an emergency affecting life or property, shall be permitted before the hour of 7:00 a.m. or after the hour of 10:00 p.m. in any area where there are inhabited dwellings located within 2,000 feet of the drilling operation. No drilling shall be conducted from February 15 through April 30.

824.12 PLUGGING AND ABANDONMENT OF WELLS.

No person shall plug and/or abandon a gas or oil well without first obtaining a permit therefor from the Mayor, the fee for which shall be one hundred dollars (\$100.00). Upon granting

such permit, the Mayor shall mark notice of such fact upon the map provided at the time of the original permit application. Such plugging and/or abandonment of a gas or oil well shall be in accordance with the laws of the State. Such plugging and/or abandonment shall be done under the supervision of a representative of the State Division of Oil and Gas.

824.13 REJECTION OF PERMIT APPLICATION.

When a permit is refused, four thousand, two hundred and fifty dollars (\$4,250) of the deposit of cash required to be made with the application shall be returned to the applicant.

824.14 DRILLING IN RESIDENTIAL DISTRICTS.

- (a) There shall be no drilling of gas or oil wells in residentially zoned districts.
- (b) Notwithstanding section (a) hereof, the Council may recommend to the Mayor the issuance of a permit in a residential district and the Mayor shall issue the same when an applicant can demonstrate to the satisfaction of the Council that the issuance of a permit in a residential district will (1) not impede the public health, safety and welfare, and (2) not depreciate adjoining property values.
- (c) Prior to making a determination pursuant to section (b) herein, the Council shall hold a public hearing with notice as otherwise provided in the Codified Ordinances as well as certified mail notice, return receipt requested, to all landowners within 500 feet of the proposed drilling site, for the purpose of hearing any comments and/or objections to the issuance of said permit.

824.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)