



Oil and Gas Well Drilling Ordinance

Town Council Agenda Item #9
July 18, 2011



Background

- June 7, 2010, adoption of Ordinance 38-10 established the Oil and Gas Advisory Board (OGAB)
- OGAB was established to conduct a review of the Town's oil and natural gas well drilling and production regulations and conduct public hearings
- Multiple meetings and site visits were conducted by the Board and public hearings were held
- OGAB's draft recommendations were presented at a Council work session on January 20, 2011



Background

- OGAB's recommendations focused on the following areas or issues:
 - Setbacks
 - Monitoring (Emissions and Noise)
 - Variances
 - Centralized Facilities
 - Notification/Administrative Approvals
 - Emergency Response Plans
 - Insurance
 - Landscaping
 - SmartGrowth
 - Traffic



Oil and Gas Ordinance Review

- Public hearings were held on February 10 and 12 to solicit feedback on the recommendations
- OGAB held a follow up meeting on February 22 to discuss the feedback and comments received
- Items remaining for additional review/discussion were provided to the Town Council in March
- Additional public comment sought:
 - Public comment period April 1 - 18
 - Two public meetings held on April 7 and 12
- A Public Hearing at Town Council was held on June 20; feedback received included in proposed ordinances



Studies and Concerns

- Integra Well Site Impact Study
- Kleinfelder Ambient Air Quality Evaluations
- EPA Concerns about Hydraulic Fracturing and Drinking Water Resources and Quality
- Soil Contamination Issues
- Federal Government/USACE Infrastructure
- Insurance Issues



Notice - Administrative Approvals

Current: No public hearing/notice requirements for administrative approvals of permits

Proposed: Public meetings and notice on possible pad sites that may qualify for administrative approvals

- Once oil & gas inspector determines application meets all ordinance requirements for administrative approval, within 30 days, notice of pending permit approval delivered to all property owners within 1,500 feet



Notice - Administrative Approvals

- Notice based on tax rolls (similar to zoning cases)
- Property owners informed of meeting open to the public
- Property owners may ask questions about and discuss the pending permit
- All costs of property owner notification borne by applicant/operator
- Meeting shall occur within 21 days after the date of mailing of property owner notification



Emergency Plans

Current:

- Prior to drilling, operator submits emergency response plan establishing written procedures to minimize any hazard
- Plan must be current with any additions, modifications and/or amendments concerning all construction-related activities, operations and production
- Updated plans must be submitted within 2 business days after any additions, modifications, and/or amendments to the plan
- Copy of the plan must be kept on site
- Plan must provide for: prompt and effective response to emergencies regarding leaks or releases; fire, explosions or natural disasters; effective means to notify and communicate to local fire, police and public officials during an emergency; availability of personnel, equipment, tools, and materials as necessary at the scene of an emergency; measures to be taken to reduce public exposure to injury; emergency shut down of well; safe restoration of service and operations following an emergency or incident; follow-up incident investigation and the implementation of corrective measures



Emergency Plans

Proposed: Add provisions regarding evacuation plans for residents within ½ mile; require operator to utilize a hazardous materials cleanup service company; on-site emergency drill every 2 years; audible automated alarm system for drops in pressure, release of gas, or fire; school district(s) to receive copy of emergency plan for comment



Insurance

Current: Certain general requirements for all policies, such as naming the Town as an additional insured, policies to be written on an occurrence basis, deductibles listed, non-cancellation properly endorsed, etc.

- General liability policy: \$1 million per occurrence
- Excess or umbrella liability: \$5 million excess and if no environmental pollution liability policy, \$10 million excess
- Environmental pollution liability policy: \$1 million per loss with annual aggregate of at least \$10 million
- Well control coverage: \$5 million per occurrence with no aggregate, if available, otherwise \$10 million
- Workers' compensation/employers liability: statutory limits, employers' liability with a minimum of \$500,000 per accident
- Automobile liability: \$1 million per occurrence



Insurance

Proposed: Amend \$1 million/\$5 million to \$25 million/\$50 million

- General liability policy: \$25 million per occurrence
- Excess or umbrella liability: \$50 million excess and if no environmental pollution liability policy, \$75 million excess
- Environmental pollution liability policy: \$25 million
- Well control coverage: \$5 million per occurrence with no aggregate, if available, otherwise \$10 million
- Workers' compensation/employers liability: statutory limits, employers' liability with a minimum of \$500,000 per accident
- Automobile liability: \$1 million per occurrence



LANDSCAPING REQUIREMENTS

Current:

- Combination of shrubs, trees, ect. required after 45 days of production
- Within 3 years, 50% of the structures landscaped shall be screened from view of adjacent property owners and public right-of-way
- At least 40% of the vegetation must be evergreen, with emphasis on preservation of existing vegetation and transplanting
- Native, drought tolerant plant list provided in ordinance for direction
- Planting of vegetation screen may be deferred, through an escrow agreement with a cash deposit, until a plat is submitted for the subject property within 1,000 feet, or a public right-of-way is constructed within 500 feet of the well
- Town may enter onto the property in the event of failure to comply with the escrow agreement and Town may plant and install required vegetation screen and operator must reimburse the Town



LANDSCAPING REQUIREMENTS

Proposed: Eliminate escrow process; landscaping and vegetation complete within 45 days of completion of drilling of first permitted well; tree list in O&G ordinance should be same as in pipeline ordinance; screening installed completely around perimeter of pad site; within 45 days of drilling of first gas well, fencing/walls should be installed around perimeter of pad site unless sound mitigation walls are in place, then 45 days after removal of sound mitigation walls



Monitoring

Current: The Town performs monthly air quality monitoring; pre- and post-drilling fresh water well analysis; soil sampling for pits (if contamination is suspected)

Proposed: Establish baseline data for air, water and soil monitoring

- Continue air quality monitoring (Town function, not operator function)
- Increase frequency of post-drilling fresh water well analysis
- Continue soil sampling for pits
- Pre- and post-drilling soil sampling and periodic soil sampling (samples to be taken at the location of any proposed drill site equipment) and sampling by third party
- Venting or open flame restrictions: 1,000 feet, 72 hours notice
- Emissions compliance plan required if 2 notices of violation by TCEQ or EPA within 12 months, 24-hour on-site monitoring and periodic reporting to Town Council; installation of appropriate equipment to meet compliance plan



Noise Monitoring

Current: Daytime fracking—70 db at distance of 300'; drilling—70 db for daytime and 56 db for nighttime; compression facilities—3 db over ambient at nighttime and 5 db over ambient during daytime.

Proposed: Address ambient standards; add low frequency noise requirements

- **Noise mitigation required for drilling, fracking and production operations**
- **Require establishment of daytime and nighttime ambient noise levels for the noise management plan**
- **Compression/production operations shall not exceed 3 db over ambient level**
- **No drilling, production or other operations shall produce a low frequency sound level that exceeds the following decibel levels: 16 Hz octave band: 65 db; 32 Hz octave band: 65 db; 64 Hz octave band: 65 db**



Setbacks and Variances

OGAB setback recommendations adopted in the proposed ordinance

- **All references to mineral ownership eliminated (including OGAB recommendation for residence setback)**
- **Setback distances measured from edge of construction**
- **Setbacks may be subject to variance of up to 25% of setback distance (ex. 1,500 feet down to 1,125 feet)**
- **Public park definition retained (excludes equestrian trails)**
- **Habitable structure definition (excludes gazebos and porches)**
- **No permit issued unless USACE verifies to Town that pad site is not located within 3,000 feet of any federal public work**



Setbacks and Variances

■ Residence

- **Current:** 1,000' without mineral interest with variance possible to 500'; 500' with mineral interest with variance possible to 300'
- **Proposed:** 1,500' from any residence; maximum 25% reduction with variance

■ Schools, Religious Institutions, Hospitals

- **Current:** 1,000'; variance possible to 500'
- **Proposed:** 1,500' from any property line with school, etc.; maximum 25% reduction with variance



Setbacks and Variances

■ ESAs, Floodplain

- **Current:** 500'; no variance minimum
- **Proposed:** 750'; maximum 25% reduction with variance

■ Public Road or ROW

- **Current:** 500'; no variance minimum
- **Proposed:** 750' with no variance



Setbacks and Variances

■ Property Line

- **Current:** 500'; no variance minimum
- **Proposed:** 750'; maximum 25% reduction with variance

■ Public Park

- **Current:** 1,000'; no variance minimum
- **Proposed:** 1,500'; maximum 25% reduction with variance



Setbacks and Variances

■ Fresh Water Wells

- **Current:** 1,000'; no variance minimum
- **Proposed:** 1,500'; maximum 25% reduction with variance

■ New Construction

- **Current:** 500'; variance possible to 300'
- **Proposed:** All new construction shall comply with applicable operation site setbacks/variances (*Exception: pad sites permitted prior to ordinance effective date*)



SMARTGrowth

Current: Not referenced in ordinance except for ESAs

Proposed: Address gas drilling as it impacts the values encompassed by SMARTGrowth

- SMARTGrowth's values addressed in the preamble to proposed ordinance



Traffic

Current: Site plans for gas well sites reviewed by
Town

Proposed: Traffic impact analysis to be added to
approval process

- **A traffic impact analysis in accordance with
Section 82—183-185 is required**



Additional Proposed Ordinance Provisions

- Permit and fee required for seismic activities, 10 business days prior to seismic survey activities; addition of insurance requirement (\$1 million general liability policy; map showing vibration/geophone points)
- Notice of fracking 3 business days in advance; posting of sign with white letters on red background
- Elimination of “materially different” language in section dealing with amended permits
- Town may issue stop work order in event of serious health threat
- Best management practices defined/incorporated
- Leak Detection Compliance Plan



Additional Proposed Ordinance Provisions

- Addition of non-radioactive tracing or tagging additives into frack fluid
- Electric compression required for gathering compressors
- Private roads shall be 20' from adjacent property lines (for property not under common ownership)
- Green completions: After fracking, operator must utilize appropriate equipment and processes to connect to a pipeline or shut the well in
- Secondary containment system: Lining of pad site with impervious material to prevent harmful impacts to adjoining property and surface water



Additional Proposed Ordinance Provisions

- Restoration bond of \$100,000 per acre of operation site part of required application documents: bond is valid for 1 year following expiration of an oil & gas permit, for purpose of restoring proper grading and vegetation, and is returned after drilling of a permitted well
- Expiration date added to all existing permits (2 years)
- Daytime hours changed from 7 a.m.—9 p.m. to 7 a.m.—7 p.m.



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