

CITY OF PAYETTE, IDAHO
ORDINANCE NO. 1384

AN ORDINANCE OF THE CITY OF PAYETTE, PAYETTE COUNTY, IDAHO, ADOPTING A NEW CHAPTER 17.90 "OIL & GAS OPERATIONS" UNDER TITLE 17, ZONING, OF THE PAYETTE MUNICIPAL CODE; PROVIDING FOR A SEVERABILITY CLAUSE; ESTABLISHING A REPEALER CLAUSE; ESTABLISHING A PENALTY; ALLOWING FOR PUBLICATION IN SUMMARY FORM; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PAYETTE AS FOLLOWS:

SECTION 1. Adoption of New Chapter 17.90 to Title 17, Zoning.

The City of Payette Code of Ordinances is hereby amended to add the following new Chapter 17.90 under Title 17, Zoning:

Chapter 17.90
OIL AND GAS OPERATIONS

- 17.90.010. Purpose
- 17.90.020. Definitions
- 17.90.030. Zoning Classification
- 17.90.040. Permit Requirement
- 17.90.050. Permit Application
- 17.90.060. Issuance of Permit
- 17.90.070. Site Design and Installation
- 17.90.080. Water Quality Testing
- 17.90.090. Seismic Operations

17.90.010. Purpose.

This Ordinance is a zoning and public nuisance ordinance enacted to protect and promote the health, safety and general welfare of present and future residents of the City while at the same time providing for the responsible and economically viable extraction of oil and gas minerals. This Ordinance is a police power, public nuisance and land use regulation designed to establish separate land use, environmental, traffic, cultural, historical and archeological, emergency service and preparedness, health and safety, and other standards to protect from any possible adverse public nuisance effects and impacts resulting from oil

and gas exploration, drilling, extraction or transportation in the City.

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

Local governments are preempted from regulating the same features Oil and Gas Well operations or accomplishing the same purposes regulated under Idaho Statute 47-317. Local zoning regulates surface land use as authorized under the Local Land Use Planning Act (I.C. 67-65).

17.90.020. Definitions.

For the purposes of this Chapter, all terms used that are defined in the IDAPA regulations and are not defined in this Chapter are defined as provided in the IDAPA regulations as of the effective date of this Chapter. The following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

Applicant: Any person, Owner, Operator, partnership, company, corporation and its subcontractors and agents who has an interest in real estate for the purpose of exploring or drilling for, producing, or transporting Oil or Gas.

Department: The Idaho Department of Lands.

Development: Any work which actively promotes bringing in production.

Drilling Pad: The area of surface operations surrounding a proposed or existing well or wells and accessory structures and equipment necessary for drilling, completion, recompletion, work over, development and production activities.

Geophysical or Seismic Operations: Any geophysical method performed on the surface of the land utilizing certain instruments operating under the laws of physics respecting vibration or sound to determine conditions below the surface of the earth which may contain oil or gas and is inclusive of but not limited to the preliminary line survey, the acquisition of necessary permits, the selection and marking of shot-hole locations, necessary clearing of vegetation, shot-hole drilling, implantation of charge, placement of geophones, detonation and backfill of shot-holes, and vibroseis.

Oil and Gas: Crude oil, natural gas, methane gas, propane, butane and/or any other constituents or similar substances that are produced by drilling an oil or gas well.

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

Oil or Gas Facility or Facilities: A new well or wells and the surrounding Well Site and well pad, constructed and operated to explore for or produce crude oil and/or gas and includes auxiliary and associated equipment and facilities, such as derricks, separators; dehydrators; pumping units; tank batteries; tanks; metering stations and equipment; any equipment for the reworking of an existing well bore; workover rigs; compressor stations and associated engines, motors, facilities and equipment; water or fluid injection systems and associated facilities and equipment; storage or construction storage yards; gathering systems and associated facilities and equipment, collection lines, drip stations, vent stations, pigging facilities, chemical injection station, transfer pump stations

and valve boxes; any other structure, building or facility, temporary or permanent, mobile or stationary, associated with or used in connection of a new Oil or Gas Well or the installation, construction or operation of the Oil or Gas Well, and the roads used for ingress and egress to and from a new Oil or Gas Well or surrounding Well Site.

100-year Floodplain: The land in the floodplain within the City subject to a one (1) percent or greater chance of flooding in any given year, as designated by the Federal Emergency Management Agency, or on the Flood Insurance Rate Maps.

Roadway: Any street, avenue, boulevard, road land, parkway, place, viaduct, easement for access, or other way which is an existing state, City, or municipal roadway; or a street or way shown in a plat heretofore approved pursuant to law or approved by official action; or a street or way in a plat duly filed and recorded within the right-of-way boundaries whether improved or unimproved and may be comprised of pavement, shoulder, curbs, gutters, sidewalks, parking areas, and lawns.

a. "Arterial Route" - A general term including expressways, major and minor arterial streets; and interstate, state or City highways having regional continuity.

b. "Collector Street" - A street that provides for traffic movement within neighborhoods of the City and between major streets and local street and for direct access to abutting property.

c. "Local Street" - A street that provides direct access to residential, commercial, industrial, or other abutting land for local traffic movements and connects to collector and/or arterial streets.

1. "Marginal Access Street" - A minor street parallel and adjacent to an arterial route and intercepts local streets and controls access to an arterial route.

2. "Cul-de-sac Street" - A short local street having one end permanently terminated in a vehicular turnaround.
3. "Loop Street" - A minor street with both terminal points on the same street of origin.
4. "Alley" - A public service way used to provide secondary vehicular access to properties otherwise abutting upon a street.

Road Repair Agreement: A written agreement between the owner/operator and the City obligating the operator to repair damage, excluding ordinary wear and tear, if any, to public streets, including but not limited to bridges, caused by the operator or its employees, agents, contractors, subcontractors or representatives in the performance of drilling or production of any wells authorized by the city or City.

Well: An oil and gas well or an injection well, including but not limited to directional drilling wells (for example, any well hole drilled into the ground).

Well Site: See Oil or Gas Facility or Facilities

17.90.030: Zoning Classifications

Subject to the provisions of this ordinance, an oil or gas well site shall be considered a permitted use by right within any Zoning District(s), subject to the standards listed herein.

17.90.040. Permit Requirement:

A. No oil or gas well site, or an addition to an existing oil or gas well site, shall be constructed or located within the City unless an administrative zoning permit under this ordinance has been issued by the City to the applicant approving the construction or preparation of the site for oil or gas development.

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

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

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

E. Upon receiving notice from the Department that an application has been submitted, the City will notify all property owners within three hundred (300) feet of the affected tax parcel that an application for a new Oil and Gas operation has been filed with the City Planning & Zoning Department. The notice is for informational purposes only and will not solicit any public comments on the application.

F. If an applicant does not conduct said business for a period of one (1) year, the administrative zoning permit shall be null and void. The City Council has the discretion to provide one (1)

six-month extension upon request by the applicant. Permits issued under this ordinance shall not be transferable to any other applicant, except by a majority vote of the City Council, and the filing of an application by the applicant to whom such license is, or may be, transferred or assigned.

G. A separate Geophysical Operations permit shall be required for exploration for oil or gas. Exploration of oil or gas means geologic or geophysical activities, including, but not limited to surveying and seismic exploration, related to the search for oil, gas, or other sub-surface hydrocarbons.

17.90.050. Permit Application:

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

1. A narrative describing an overview of the project including the number of acres to be disturbed for development, the number of wells to be drilled including Department permit number(s) for all wells, if available, at the time of submittal and provided when issued later, and the location, number and description of equipment and structures to the extent known.
2. The address of the oil or gas well site and a legal description of the parcel as determined by the City and information needed to gain access to the well site in the event of an emergency.
3. The contact information of the individual or individuals responsible for the operation and activities at the oil or gas well site shall be provided to the City and

all applicable Emergency Responders as determined by the City. Such information shall include a phone number where such individual or individuals can be contacted twenty-four hours per day, three-hundred sixty-five days a year. Annually, or upon any change of relevant circumstances, the applicant shall update such information and provide it to the City and all applicable Emergency Responders as determined by the City.

4. A scaled site plan of the oil or gas well site showing the drilling pad, planned access roads, the approximate location of derricks, drilling rigs, equipment and structures and all permanent improvements to the site and any post construction surface disturbance in relation to natural resources. Included in this map shall be an area within the development site for vehicles to locate while gaining access to the oil or gas well site.

5. A narrative and map describing the planned access routes to the well sites on public roads including the transportation and delivery of equipment, machinery, water, chemicals and other materials used in the siting, drilling, construction, maintenance and operation of the oil or gas well site.

6. The applicant will make the operation's Preparedness, Prevention and Contingency Plan available to the City and all Emergency Responders at least 30 days prior to drilling of an oil or gas well and at least annually thereafter while drilling activities are taking place at the oil or gas well site.

7. An appropriate site orientation for all applicable Emergency Responders as determined by the City. The cost and expense of the orientation shall be the sole responsibility of the applicant. If multiple wells/well pads are in the same area (covered by the same emergency response agencies), evidence from the appropriate emergency response agencies that a site orientation was offered in the last 12 months shall be accepted.

8. A narrative describing the environmental impacts of the proposed project on the site and surrounding land and measures proposed to protect or mitigate such impacts shall be provided to the City.

17.90.060. Issuance of Permit.

A. Within five (5) business days after receipt of a permit application, the City will determine whether the application is complete and advise the applicant accordingly.

B. If the application is complete and fulfills the requirements of this ordinance, the City Planning and Zoning Administrator shall issue a permit within 21 days following the date the complete application was submitted.

C. If the application is incomplete or does not fulfill the requirements of this ordinance, the City will notify the applicant of the missing and/or inadequate material and, upon receiving said material, shall issue the permit within twenty-one (21) days following the date the complete application was submitted.

D. As a condition of permit approval, applicant shall provide all permits and plans from the Department and all

other appropriate regulatory agencies within 30 days of receipt of such permits and plans.

17.90.070. Site Design and Installation:

A. General Requirement

All drilling and other operations conducted at an Oil or Gas Facility or construction of structures associated with, or serving an Oil or Gas Facility, for which a permit is required, shall strictly comply with the requirements of this Ordinance applicable to such Oil or Gas Facility or Facilities, including, but not limited to those set forth in this Article, and shall be conducted at all times in accordance with the Best Management Practices of a reasonable and prudent Operator.

B. Setbacks

1. No Oil or Gas Facility shall be permitted within a 100 year floodplain as mapped and designated by the Federal Emergency Management Agency (FEMA).
2. Setbacks shall not apply to roads used solely for the purpose of accessing Oil or Gas Facilities.
3. Setbacks shall be measured from the center of roads and from the seasonal high water mark of watercourses, or the outer boundary of the affected Surface Water Feature.
4. No Oil or Gas Facility shall be permitted within the following distances of the following geographic features and structures:
 - a. inhabited dwelling - 650 feet;
 - b. structure used as a place of assembly, school or institution - 1000 feet;

- c. non-residential structure - 200 feet;
- d. any state, federal or city publicly dedicated road or highway - 200 feet;
- e. surface water features - 300 feet;
- f. existing water well permitted by the State Engineer and used by less than five (5) households - 200 feet;
- g. existing water well permitted by the State Engineer used by five (5) or more people -1000 feet;
- h. within a designated cultural, historic or archeological resource as recommended according to the applicable surface management agency [e.g. SHPO].

The City Council has the discretion to permit deviation from the prescribed setbacks based on the Operator's demonstrated ability to protect and/or mitigate the impacts on the foregoing features, and with the written agreement of the Surface Property Owner or tenant, or, where applicable, the Adjacent Surface Property Owner or tenant, and/or the appropriate surface management agency.

C. Access.

1. Vehicular access to a natural gas well, oil well or well pad solely via a local street is discouraged unless it can be proven that the only viable vehicular access to the well site is via the local route. The use of collector streets is preferred.
2. Payette City Roadway Standards and Development Procedures pertaining to minimum traffic sight distances for all access points shall be adhered to.
3. Access directly to State roads from a well site may require an Idaho Transportation Department (ITD) Approach

Permit. Prior to initiating any work at a drill site, the City shall be provided a copy of any required Approach Permit.

4. Access directly to City local streets shall require a Payette City Road Repair Agreement prior to initiating any work at a well site. Operator shall comply with any generally applicable bonding and permitting requirements for City roads that are to be used by vehicles for site construction, drilling activities and site operations.

D. Height.

1. There shall be an exception to the height restrictions contained in this section for the temporary placement of drilling rigs, drying tanks, pad drilling and other accessory uses necessary for the actual drilling or redrilling of an oil or gas well. The duration of such exemption shall not exceed the actual time period of drilling or redrilling of an oil or gas well or pad drilling.
2. If applicable, application will meet standards as defined in Ordinance 938 of the City of Payette, Payette Municipal Airport Hazard Zoning Ordinance.

E. Screening and Fencing.

1. Security fencing shall not be required at oil or gas well sites during the initial drilling, or redrilling operations.
2. Upon completion of drilling or redrilling security fencing consisting of a permanent chain link fence or approved alternate shall be promptly installed at the oil or gas well site to secure well heads, storage

tanks, water or liquid impoundment areas, and other mechanical and production equipment and structures on the oil or gas well site.

3. Security fencing shall be at least 6 feet in height equipped with lockable gates at every access point and having openings no less than 12 feet wide. Additional lockable gates used to access oil and gas well sites by foot may be allowed, as necessary. All locked access gates shall have Knox Box access through the City Fire Department.

4. Warning signs shall be placed on the fencing surrounding the oil or gas well site providing notice of the potential dangers and the contact information in case of an emergency. During drilling and hydraulic fracturing, clearly visible warning signage must be posted on the pad site.

5. In construction of oil or gas well sites, the natural surroundings should be considered and attempts made to preserve existing trees and other native vegetation. Existing trees and respective root systems should not be disturbed whenever possible. Re-forestation/re-vegetation of the well site will be provided by the owner/operator as required by rules governing Oil and Gas Conservation.

F. Lighting.

Lighting at the oil or gas well site, either temporary or permanent, shall be directed downward and inward toward the activity, to the extent practicable, so as to

minimize the glare on public roads and adjacent properties.

G. Noise.

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

1. All construction, maintenance, and operations of any Oil or Gas Facility shall be conducted in a manner to minimize the noise created to the greatest extent possible.
2. Noise will be measured on the "A" scale, using an industry approved protocol. Sound measurement instruments will be either a Type I or Type II, SPL instrument that meet or exceed established ANSI standards.
3. Oil and gas operations at any Well Site, production facility, or gas facility shall comply with the following maximum permissible noise levels measures at six hundred and fifty (650) feet from the source or at the receptor, unless another standard has been established in a surface use agreement.
4. Noise standards for continuous operations shall apply to all oil or gas operations that operate on a continual (>8 hours/day), long-term basis (>3 weeks) in duration. In the hours between 7:00 a.m. and the next 7:00 p.m. the noise levels permitted below may be increased ten (10) db(A) for a period not to exceed fifteen (15) minutes in any one (1) hour period.

5. Noise standards for temporary operations shall apply to all operations involving pipeline or gas facility installation or maintenance, the use of a drilling rig, completion rig, workover rig, or stimulation.

Duration:	7am to 7pm	7pm to 7am
Continuous Operations	60 db(A)	55 db(A)
Temporary Operations	90 db(A)	85 b(A)

6. The exhaust from all engines, motors, coolers and other mechanized equipment, including compressor station fans, shall be vented in a direction away from the closest existing building units or platted subdivision lots.

H. Dust Control

Operator shall control fugitive dust arising from operations. Operator shall dust proof work area by sprinkling with water or a water/calcium chloride mixture where necessary.

I. Weed/Debris Control

The site shall be kept in a clean and sanitary condition, free from weeds, debris and rubbish of every character to the satisfaction of the City Code Enforcement Officer. The well pad should remain vegetation free.

J. Work hours

Site development, other than drilling shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Friday

and 9:00 a.m. to 5:00 p.m. on Saturday. Truck deliveries of equipment and materials associated with drilling and well servicing, site preparation and other related work conducted on the site shall be limited to the above same work hour restrictions except in cases of an emergency. The operator may request an exception to this section for good cause shown.

K. Temporary housing for well site workers is not permitted at any time on the well site. One on-site office is permitted, but is not to be used for sleeping accommodations.

17.90.080. Water Quality Testing

As a condition of permit approval, applicant must provide to County, prior to any drilling activity, documentation of baseline water testing on a minimum of two down-gradient domestic wells for the protection of public health and safety. The applicant shall notify land owners who have registered their domestic wells with the Idaho Department of Water Resources (IDWR) and whose property lies within 300 feet of the proposed well drilling site by regular United States mail and by physical posting on the applicant's drill site fourteen (14) days in advance of intent to engage in baseline well testing. Tests shall be completed for all items listed.

- a. Field parameters.
 1. Water temperature
 2. PH
 3. Specific conductivity.
- b. Specific conductivity and total dissolved solids.
- c. Major ions.

1. Chloride
 2. Fluoride
 3. Sulfate
 4. Nitrate
 5. Silica
 6. Alkalinity
 7. Calcium
 8. Sodium
 9. Potassium
 10. Magnesium
- d. Trace elements.
1. Aluminum
 2. Arsenic
 3. Barium
 4. Boron
 5. Iron
 6. Manganese
 7. Selenium
 8. Uranium
- e. Radiochemical.
1. Gross alpha/gross beta radioactivity, in addition to uranium listed above.
- f. Organics.
1. BTEX (benzene, ethylbenzene, toluene, and xylene)
 2. Methane; carbon isotopic composition for samples with sufficient methane.

Baseline water testing shall be completed every twenty-four (24) months while the well is in production. Copies of baseline water quality test results shall be provided by the Applicant free of charge to owners of the wells tested within thirty days of receipt of written request of the well owner.

All domestic well owners, as identified by the Idaho Department of Water Resources, within the surrounding 160-acre section shall be notified prior to drilling.

17.90.090. Geophysical Operations

A. Permit required.

It shall be unlawful for any person to conduct any exploration activities within the City regarding oil, gas, and/or other materials by the use of energy source operations, including without limitation weight drops, explosives, and/or vibrating machines, thumper trucks or any other vehicles or equipment that causes vibrations, without first obtaining a permit from the City. To the extent an applicant seeks to conduct Geophysical Operations on City property, including but not limited to City roads, highways, and real estate, the City Council has the express right to grant or deny any application under this Ordinance.

B. Permit application; fee procedure.

Application for a permit hereunder shall be made with the City. Such application shall contain the following information: (1) name of the applicant; (2) address of the applicant; (3) type of explosives or other geophysical methods of mineral exploration to be used, and the purposes therefore; (4) a map designating a testing area and showing the location of all points of use and the energy source to be used at each point; (5) a traffic control plan for any operations or testing that will impede traffic on a public right-of way; and (6) the applicant's insurance information, including the name of applicant's insurance carrier, the types and amount of insurance covering its proposed operations, the name and

telephone number of an individual to contact in case of a claim for personal injury or property damage, and the procedure for obtaining a copy of applicant's certificate of insurance; (7) a copy of a signed and approved Permit for Geophysical Operations issued by the State of Idaho.

A non-refundable permit fee as set by resolution of the City Council for processing the application and preparing the permit shall accompany each such application. On receipt of such application, the City shall prepare a report showing all City facilities or infrastructure that may be affected by the proposed exploration activity located in the testing area shown in such application. Such report and the application shall then be submitted to the City Council with the recommendations of City Staff. No permit shall be issued except upon approval of the City Council.

C. Term.

An approved Geophysical Operations permit shall expire thirty (30) days after completion of all activities. All permits issued under this section shall be for a time period not to exceed ninety (90) days from the date of issuance of the permit.

Section 2. This Ordinance may be published in summary form as permitted by the State of Idaho.

Section 3. This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

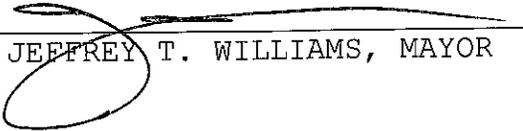
Section 4. Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

Section 5. If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

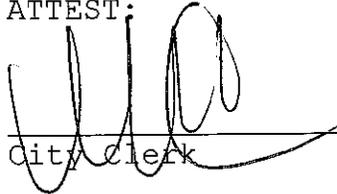
Section 6. Any violation of this Ordinance shall be a misdemeanor punishable by fine and/or imprisonment up to but not exceeding the maximum penalties set forth in Idaho Code § 18-113 and §50-302.

PASSED and APPROVED by the City Council of the City of Payette, Idaho this 6th day of October, 2014.

CITY OF PAYETTE, PAYETTE CITY, IDAHO

by 
JEFFREY T. WILLIAMS, MAYOR

ATTEST:



City Clerk

Reviewed and Approved by:

Bert Osborn, City Attorney