

05/07/2015

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 138-4.300, TABLE OF PERMITTED USES BY DISTRICT; ADD NEW SECTION 138-4.425; AND RE-NUMBER EXISTING SECTIONS 138-4.425 THROUGH 138-4.445 OF CHAPTER 138, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO REGULATE OIL AND GAS WELLS, REPEAL CONFLICTING OR INCONSISTENT ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. The Industrial, Research, and Technology Uses in Section 138-4.300 Table of Permitted Uses By District, of Chapter 138 of the Code of Ordinances shall be amended as follows:

| Key: | P: Principal Permitted Use | C: Conditional Use | | | | | | | | | | [—]: Use not permitted | | | |
|--|---|--------------------|------|-------|-------|-------|-------|-------|-------|-----|---|------------------------|---|-------------------|---|
| USES | | DISTRICTS | | | | | | | | | | ADDITIONAL STANDARDS | | | |
| | | RA | RM-1 | B-1 B | B-2 B | B-3 B | B-4 C | B-5 D | O-1 E | ORT | I | SP | | | |
| INDUSTRIAL, RESEARCH, and TECHNOLOGY USES | | | | | | | | | | | | | | | |
| | Airports, landing fields, heliports, platforms, hangars, masts and other aeronautical facilities | | | | | | | | | | | | C | Section 138-4.402 | |
| | Assembly and machining operations when adjunct to research and development activities occurring at the same location. | | | | | | | | | | | | C | P | Section 138-4.421 Section 138-4.426 (ORT only) |
| | Auto racetracks, including midget, carting, and snow-manufactured tracks | | | | | | | | | | | | C | | Section 138-4.403 |
| | Automobile and machinery assembly plants | | | | | | | | | | | | P | | Section 138-4.419 |
| | Building material storage and sales | | | | | | | | | | | | P | | Section 138-4.419 |
| | Caretaker's or manager's residence | | | | | | | | | | | | P | | Permitted only when accessory to a principal use. Residence may not exceed 750 square feet of total living area |
| | Commercial communication towers, including commercial television, radio, and public utility transmitting and/or receiving towers and receiving microwave antennas | | | | | | | | | | | | C | | Section 138-4.409 |
| | Contractor's or builder's office including a storage equipment yard if related to the contracting or building business | | | | | | | | | | | | P | | |
| | Dry cleaning plants | | | | | | | | | | | | C | | Section 138-4.420 |

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|--|--|--|---|---|---|--|--|---|---|---|--|---|
| | | | | | | | | | | | | noxious odors and/or nuisances shall be provided |
| Media and entertainment production facilities | | | P | P | | | | P | P | P | | Such uses shall be primarily operated within an enclosed building, but may include an outdoor element provided that the use is operated in conformance with Section 138-10.310, Performance Standards |
| Oil or gas well | | | | | | | | | | P | | Section 138-4.425 |
| Painting and varnishing shops | | | | | | | | | | P | | Section 138-4.419 |
| Recreational vehicle storage yards | | | | | | | | | | P | | Section 138-4.437 |
| Tool, die, gauge and machine shops | | | | | | | | | | P | | Section 138-4.419 |
| Tractor and trucking facilities, including storage and repair | | | | | | | | | | C | | Outdoor storage of vehicles subject to the requirements of Section 138-4.437 |
| Vehicle Collision Repair and Undercoating | | | | | | | | | | P | | Section 138-4.419 |
| Warehousing and wholesale establishments | | | | | | | | | | P | | Section 138-4.419 |
| Waste lagoon ponds | | | | | | | | | | C | | Section 138-4.444 |
| Water supply and sewage disposal plants | | | | | | | | | | P | | |
| Water and gas tank holders | | | | | | | | | | P | | |
| Studios or instruction centers for music, art, dance, crafts, martial arts, etc. | | | P | P | P | | | | | | | |

Section 2. New Section 138-4.425 shall be added to Chapter 138 of the Code of Ordinances as follows:

SECTION 138-4.425 Oil and Gas Wells.

The following requirements shall apply to the location, installation, drilling and operation of any well for the commercial extraction of oil, gas or other hydrocarbons in the City:

1. The location, installation, drilling, operation, maintenance, completion, and abandonment of oil and gas wells shall comply with all applicable federal and state laws, regulations, rules, orders, and permits.
2. A new oil or gas well shall not be located closer than 1,000 feet from a residential dwelling or place of worship, school, hospital, child care center or public park or 330 feet from an adjoining property line, unless the adjoining property is pooled with the well site property, and unless the location is at least 660 feet from another well. This paragraph shall not be construed to restrict or prohibit underground horizontal drilling directional or horizontal drilling where lawfully permitted by Michigan Department of Environmental Quality. Notwithstanding the preceding sentence, the setback distance requirements in this paragraph are in addition and supplemental to the spacing and setback requirements prescribed by Michigan Statutes, Administrative Regulations and Supervisor of Wells Orders and Instructions.
3. Prior to drilling the owner or operator of an oil or gas well shall provide to the City a copy of the Environmental Impact Assessment filed with the Michigan Department of Environmental Quality in connection with a well permit under Part 615 of the Natural Resources and Environmental Protection Act, MCL 524.61501, et seq, and the administrative rules promulgated under Part 615, as amended, and a hydrogeological study. The owner or operator shall install at least one groundwater monitoring well in close proximity to, and down gradient of, the well location prior to commencing drilling. The owner or operator shall collect a water sample from the monitoring well prior to commencing drilling operations and at monthly intervals following completion of drilling operations. Water samples shall be tested for specific conductance, chloride, benzene, ethylbenzene, toluene, and xylene. The owner or operator shall provide the results of the sample analysis to the City Engineer within two (2) business days after the results are available.
4. An oil or gas well site shall be completely enclosed with an eight (8) foot high fence designed to prevent unauthorized entry during well drilling, completion and operation.
5. Measures deemed adequate by the City Engineer shall be implemented at the oil or gas well site to prevent or control any objectionable dust, noise, vibrations, fumes, or odors from leaving the property or adversely affecting or unreasonably disturbing persons living or working in the vicinity. All operations shall be

conducted in accordance with the best practices determined by the Michigan Department of Environmental Quality for the production of oil, gas and hydrocarbons in urban and residential areas.

6. Exterior lighting shall be shielded to prevent unnecessary light or glare from being directed off-site and shall comply with Chapter 2 of Article 10 of the Zoning Ordinance.
7. The installation, drilling, operation and maintenance of oil and gas wells shall conform to the Performance Standards of Section 138-10.310 of the Zoning Ordinance in regard to airborne emissions, odors, gases, noise and vibration, hazardous substances, glare, fire and explosive hazards, and waste and rubbish dumping.
8. The completed wellhead structure shall not exceed twenty-two (22) feet in height. The temporary drilling rig shall not exceed 110 feet in height.
9. An oil or gas well shall include measures or controls satisfactory to the City Engineer to prevent migration, run-off or discharge of any hazardous materials, including but not limited to any chemicals, oil or gas produced or used in the drilling or production of oil or gas, to adjoining property or to the City of Rochester Hills sanitary sewer system, stormwater system or any natural or artificial watercourse, pond, lake or wetland. There shall be no off-site discharge of storm water except to an approved drainage system in accordance with the City's engineering requirements.
10. All brine, mud, slush, saltwater, chemicals, wastewater, chemical, fluids or waste produced or used in the drilling or production of oil or gas shall, under the supervision of the Michigan Department of Environmental Quality, be safely, lawfully and properly disposed of to prevent infiltration of or damage to any fresh water well, groundwater, watercourse, pond, lake or wetland. Injection wells for disposal of brine or chemicals from production wells or other sources are prohibited in the City.
11. The oil or gas well site shall be kept in a clean and orderly condition, free of trash and debris, with weeds cut. Machinery and equipment not being used in the operation of the well shall not be stored or kept at the well site.
12. Landscaping and screening shall be provided to limit public view of wellheads and equipment after completion of the well drilling operation. Landscaping and screening shall be in accordance with Article 12 of the Zoning Ordinance. A Type E buffer shall be required.
13. No drilling rigs, construction vehicles, tanker trucks or heavy equipment used in connection with the drilling or production operations of oil or gas wells in the City shall be moved over the public roads and streets under the City's jurisdiction without obtaining approval from the City's Traffic Engineer, who shall specify the streets that may be used and any conditions that may apply.

14. The owner or operator shall provide to the City and its emergency responders any information necessary to assist the City's emergency responders with an emergency response plan and hazardous materials survey establishing written procedures to minimize any possible hazard resulting from the operation, and shall further provide to the City and its emergency responders up-to-date contact information and a means to contact a responsible representative of the owner or operator on a twenty-four (24) hour basis.
15. Hydraulic fracturing, as defined in Mich Admin Code, R324 1401 et seq,(i.e., a well completion operation that involves pumping fluid and proppants into the target formation under pressure to create or propagate artificial fractures, or enhance natural fractures, for the purpose of improving the deliverability and production of hydrocarbons),is prohibited in and under the City.
16. (a) The owner or operator of an oil or gas well shall maintain written procedures to minimize the hazards resulting from an emergency. A copy of these written procedures shall be filed with the City prior to commencement of drilling. These procedures shall at a minimum provide for the following:
 - (1) Prompt and effective response to emergencies including but not limited to:
 - a. Leaks or releases that may impact public health safety or welfare;
 - b. Fire or explosions at or in the vicinity of the oil or gas well;
 - c. Natural disaster;
 - d. Effective procedures and protocols to notify and communicate required and pertinent information to local fire, police, public officials and affected residents during an emergency;
 - e. The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency;
 - f. Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment;
 - g. Emergency shut down of the well operation;
 - h. The safe resumption of operations following an emergency or incident; and
 - i. A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.

(b) Upon discovery of an oil or gas well emergency or incident, the owner or operator shall immediately communicate to the City's 911 system the following information:

- (1) A general description of the emergency or incident;
- (2) The location of the emergency or incident;
- (3) The name and telephone number of the person reporting the emergency or incident;
- (4) The names of the well owner and operator;
- (5) Whether or not any hazardous material is involved and identification of the hazardous material so involved; and
- (6) Any other information as requested by the emergency dispatcher or other such official at the time of reporting the emergency or incident.

17. The requirements established in Michigan Department of Environmental Quality Supervisor of Wells Instruction 1-2015 (copy attached as Appendix 1) applicable to Oil and Gas Development in high population density areas are hereby adopted and incorporated herein by reference and shall apply to all new oil and gas wells wherever located in the City. Such requirements are in addition and supplemental to the requirements of this section. In the event a requirement of this section is deemed to conflict with a requirement of the Supervisor of Wells Instruction, then the stricter requirement shall apply.

Section 3. Existing Sections 138-4.425 through 138-4.445 of the Code of Ordinances shall be renumbered as Sections 138-4.426 through 138-4.446, respectively.

Section 4. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 5. Penalty. All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine of not more than \$500, or as otherwise prescribed herein.

Section 6. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on _____, following its publication in the *Oakland Press* on _____, 2015.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on _____, 2015.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON _____, 2015.

Tina Barton, Clerk
City of Rochester Hills