

ARTICLE 4.09 DRILLING OR MINING

Sec. 4.09.001 Purpose and intent; definitions.

- (a) *Purpose and intent.* Drilling, mining and excavation is generally prohibited in the municipal limits. Except as otherwise provided herein, the city prohibits drilling operations and surface mining operations, including any and all production and excavation operations within the city's municipal limits.
- (b) *Definitions.* All technical industry words or phrases related to well, drilling and surface excavation/mining operations not specifically defined in this section, shall have the meanings customarily attributable thereto by prudent and reasonable well, drilling, excavation and surface mining operators. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Drilling. Digging or boring a new well for the purpose of exploring for, developing or producing water, gas or other hydrocarbons, or for the purpose of injecting gas, water or other fluid or substance into the earth and also means any digging, boring or other work for the purpose of maintaining, refurbishing or restoring existing wells for the production of water, gas or other hydrocarbons.

Drilling operation. All the activities designed and conducted in an effort to obtain production from a well, including all types of wells, e.g., water, gas, oil, etc.

Excavation. The act of digging for commercial purposes and/or for compensation. This term does not include site grading or other site development activity that has been reviewed and/or authorized by the planning and development department, or site preparation activities on land that is the subject of a then applicable developmental permit or agreement with the city.

Expanded. Making a change to wells or excavation sites that allows operation in a manner that enlarges the size, capacity, operation and/or output over 10% of the capacity that existed at the time of the effective date.

Minerals. Includes coal, lignite, uranium, clay, sand, solid material or substances of value (commercial or otherwise), from natural deposits on or in earth.

Surface mining. The mining of minerals by excavating and/or removing the overburden lying above the natural deposit of minerals and mining directly from the natural deposits that are exposed and those aspects of underground mining having significant effects on the surface; provided, this definition shall not be construed to include in situ mining activities associated with the removal of uranium or uranium ore.

Surface mining operation. Those activities conducted at or near the mining site and concomitant with the surface mining including extraction, storage, processing and shipping of minerals and reclamation of the land affected.

Variance. A permit to engage in an act contrary to a usual rule, for example, the prohibitions against drilling and mining contained in this article.

Water well. A well sunk to extract water from a zone of saturation, or otherwise used to obtain water.

Well. Each unit that produces water, hydrocarbons, or other liquids or gases.

(Ord. No. 2007-31, § 2, 11-13-07; Ord. No. 2010-4, 1-26-10)

Sec. 4.09.002 Variances.

Variances for well installation, drilling, excavation and surface mining operations are issued by the City Council upon approval of a petition for a variance to conduct a well installation, drilling, excavation or surface mining operation(s) within the city limits. All petitions for variances must be in writing, addressed to the City Council and include, at a minimum, the following information: name, address, and phone number of petitioner; physical address for which the variance is being requested; petitioner's relationship to the property; detailed description of the operation to be conducted; period of time for which the variance is sought; and any other information deemed pertinent by either the City Manager or the petitioner. The City Council shall evaluate all information pertinent to the variance request. The City Council will endeavor to make a determination with regards to the variance within thirty (30) days of the receipt of the administratively complete petition. The decision of the City Council is final and not subject to appeal.

(Ord. No. 2007-31, § 3, 11-13-07)

Sec. 4.09.003 Scope and applicability; expanded operations.

- (a) *Grandfathered status.* Wells, excavation sites and surface mining operations that are in place and operating at the time of the effective date of this article shall be exempt from the prohibitions of this article so that the then existing use may continue unaffected, until such time as they lose that status in a manner set forth herein.
- (b) *Loss of grandfathered status.* Wells, excavation sites and surface mining operations that are in place and operating as of the effective date of this article (i.e., that are grandfathered) are exempt from the prohibition noted herein, until the earlier of one of the following occurs:
 - (1) The well, excavation site, surface mining operation is expanded to operate in a manner that enlarges the size, capacity, operation and/or output over 10% of the capacity that existed at the time of the effective date.
 - (2) The use and operation of the well, excavation site or surface mining operation fails to be continuous for a period of over ninety (90) days.
 - (3) The property upon which the well, or excavation site or surface mining operation is located is conveyed to another person, either by sale, lease or other grant of real property rights.
- (c) Wells, excavation sites and surface mining operations that lose their exemption as noted herein above, shall within ninety (90) days of losing the exemption, either be brought into compliance with this article, or take action to obtain a variance to operate as an expanded well, excavation site or surface mining operation.
- (d) In the case of existing wells, the wells may be reworked by the owner, without triggering the prohibition(s) noted herein. Those wells and excavation sites are considered to be grandfathered into this code as it existed as of the effective date of this article.
- (e) Nothing contained herein is intended to, nor shall it be interpreted to mean, that work done by the city is in any manner regulated, affected or constrained by the terms of this article; rather, all city operations are specifically exempted from the provision of this code.

(Ord. No. 2007-31, § 4, 11-13-07)