

Precedent of Land Use Restrictions on Oil Extraction Operations  
& Health and Safety Setbacks  
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I. **The City of Los Angeles Previously Recognized Dangers of & Prohibited Oil Drilling in Residential Neighborhoods.**

The City of Los Angeles previously found that oil operations are incompatible with neighborhoods, and restricted existing operations from continuing in residential communities.

In the mid-1920's, the City annexed land into the Westside of Los Angeles, and soon thereafter passed a zoning ordinance to prohibit drilling and production of oil therein. The existing oil operation sites were surrounded by a dense residential development.

The zoning ordinance was amended in 1946, providing that operations of existing wells in those areas were permitted as a *nonconforming* use. However, it also expressly prohibited new wells for the production of hydrocarbon substances from being drilled and existing wells from being deepened. A 1949 amendment to the municipal code required the nonconforming oil extraction operations to be *discontinued* within (5) five years from June 1, 1946, or within five (5) years from the date the use became nonconforming.

A subsequent amendment to the Municipal Code provided that nonconforming oil wells must be abandoned after a 20-year period of liquidation. Section 12.23 contained “**an express declaration that oil drilling and production in urbanized areas . . . are detrimental to the public health, safety and welfare.**” *Beverly Oil Co. v. City of Los Angeles*, 40 Cal. 2d 552, 560 (1953).

The Municipal Code currently provides as follows:

L.A.M.C. § 12.23(C)(4) Oil Wells.

(a) No well for the production of oil, gas or other hydrocarbon substances, which is a nonconforming use, shall be redrilled or deepened.

(b) All such wells, including any incidental storage tanks and drilling or production equipment, shall be completely removed within 20 years from June 1, 1946, or within 20 years from date such use became nonconforming, if said date was subsequent to June 1, 1946; provided, however, a Zoning Administrator may, upon individual application, allow such wells to continue to operate after said removal date, *if he determines that such continued operation would be reasonably compatible with the surrounding area* and in connection there with may impose such conditions, including time limitations, as he deems necessary to achieve such compatibility.

(c) Notwithstanding the above, in the Los Angeles City Oil Field, such wells may continue operation provided an application is filed with the Office of Zoning Administration on or before November 1, 1986 and is subsequently approved. Any well operator may reapply for Zoning Administrator approval after November 1, 1986 provided the prior approval has not expired.

Section 12.23(C)(4) (emphasis added).

Application of this municipal code withstood legal challenge in *Beverly Oil Co. v City of Los Angeles*, 40 Cal. 2d 552 (1953). There, the court affirmed that “**city zoning ordinances prohibiting the production of oil in designated areas have been held valid.**” *Beverly Oil Co.*, 40 Cal. 2d at 558 (emphasis added). The court explained it to be “well settled that the enactment of an ordinance which limits the owner’s property interest in oil bearing lands located within the city is not of itself an unreasonable means of accomplishing a legitimate objective within the police power of the city.” *Id.* at 558. *See Marblehead Land Co. v. City of Los Angeles*, 47 F.2d 528 (9th Cir. 1931) (*cert. denied*, 284 U.S. 634) (“there can be no question of the inherent right of the city to control or prohibit such production, provided it is done reasonably and not arbitrarily. In that event the loss must fall upon the owner whether it prevents him from erecting structures or establishing industries which he desires to erect or establish, or whether it prevents him from developing the inherent potentialities of his land.”).

## **II. Other Jurisdictions Protect Residents from Oil Extraction Operations Through Health & Safety Setbacks**

### **Dallas, Texas**

- Enacted a 1,500 ft buffer restricting oil operations:  
 “Except as otherwise provided in this provision, a gas drilling and production use must be spaced at least 1,500 feet from a protected use (except trailers or mobile homes placed on the operation site as temporary residences for workers).” City Ordinance art. XII sec. 51A-4.203(b)(3.2)(F)(ii)(aa).
- This health and safety protect is most analogous to the City of Los Angeles based on size, density, & demographics of the cities.

### **Flower Mound, Texas**

- Created a 1,500 foot buffer rule in July 2011, immediately after repealing a yearlong moratorium on all drilling activity that was passed in 2010. Ordinance No. 29-11. Available at: <http://www.flower-mound.com/DocumentCenter/View/900>
- Commissioned studies re: property devaluation, emissions from sites, and health impacts.
- Article VII of Chapter 34, “Environment,” of the Code of Ordinances of the Town of Flower Mound, Texas, entitled “Oil and Natural Gas Well Drilling and Operations”
  - o Section 34-422 (d): Wells setbacks for oil and gas well permits.
    - (1) It shall be unlawful to drill, re-drill, deepen, re- enter, activate or convert any oil or natural gas well, for which the closest edge of construction or surface disturbance is located:
      - a. Within one thousand five hundred feet (1,500’) from any public park; or

- b. Within one thousand five hundred feet (1,500') from any residence; or
- c. Within one thousand five hundred feet (1,500') from the property line upon which any religious institution, public building, hospital building or school is located or for which a building permit has been issued on or before the date of the application for a drilling permit is filed with the oil and gas inspector; or
- d. Within one thousand five hundred feet (1,500') from any habitable structure; or
- e. Within seven hundred fifty feet (750') from any recorded property, lot or tract line, except where otherwise referenced in this section. Further, where common surface and mineral estate ownership exists for adjacent and abutting tracts, no variance shall be required for such property, lot or tract lines; or
- f. Within five hundred feet (500') from any existing storage tank, or source of potential ignition;
- g. Within seven hundred fifty feet (750') of any public street, road, highway, or right-of-way line; or
- h. Within one thousand five hundred feet (1,500') from any existing fresh water well.
- i. All distances shall be measured from the closest edge of construction or surface disturbance in a straight line, without regard to intervening structures, or objects to the closest exterior point of any object, structure, or recorded property, lot or tract line, listed in subparagraphs (a) through (h), above.

**Denton, Texas**

- Ordinance created a 1000 foot buffer of oil and gas operations from residential uses, measured from outer edge of well site, and not well heads.

**Other Texas municipalities with 1000 foot buffers:**

- Aledo, Bedford, Converse, Coppell, Corinth, Denison, Dickinson, Grapevine, Kingsville, La Marque, Lumberton, Manvel, McKinney, Morgan's Point, Nederland, Port Neches, Roanoke, Rockport, Seabrook, Southlake, Victoria, Weatherford, Westlake

**New Mexico:**

- Santa Fe County has a 750 foot buffer for dwellings and wells.

**Maryland:**

- Current regulations provide a 1,000 ft. buffer from occupied dwellings, schools, churches and well head protection area, unless written permission from owners.

**Pennsylvania:**

- Setback from residences 500' and 1000' from water well, surface water intake, or reservoir or other water supply extraction point

### **III. Studies Show Significant Health Risks to Residents Based on Proximity to Oil Extraction Operations**

- The South Coast Air Quality Management District found that drilling that occurs within 1,500 feet of residential areas poses a substantially greater risk of cancer to children than to adults.<sup>1</sup>
- 1,500 feet: Pennsylvania survey found higher rates for 18 out of 20 health symptoms in households within 1,500 feet of an active well. (Steinzor 2013)
- 0.8 km (0.5 miles): statistically higher rates of sub-chronic respiratory, neurological, and reproductive health effects illness (McKenzie 2012)
- 2,600 feet (half mile) Volatile organic compounds detected at levels exceeding federal guidelines in five states. Benzene at dangerous levels at 855 feet; formaldehyde at 2,591.(Macey 2014)
- 1-2 km: Residents within 1km of a well showed higher rates of health symptoms than those living more than 2km away from the nearest well. (Rabinowitz 2014)
- 1 mile: elevated levels of endocrine-disruptive chemicals found in water samples taken within 1 mile of active wells (groundwater, surface water, and artesian sources) in Colorado (Kassotis 2013)
- 10 miles: higher rates of birth defects (McKenzie 2014)

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<sup>1</sup> S. Coast Air Quality Mgmt. Dist. (Nov. 12, 2014) *Update on Implementation of Rule 1148.2*, at 1, <http://www.aqmd.gov/docs/default-source/compliance/rule-1148.2-reports/r1148-2-wg-pres-nov-12-2014.pdf?sfvrsn=2>.