

ORDINANCE NO. 051622

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POTH, TEXAS (THE "CITY") ADOPTING REGULATIONS GOVERNING THE EXPLORATION, DEVELOPMENT, AND PRODUCTION OF NATURAL RESOURCES WITHIN THE CITY OF POTH, TEXAS; REPEALING ALL PRIOR ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Texas Local Governmental Code empowers the cities to enact codes and regulations and provide for their administration, enforcement, and amendment for the exploration, development, and production of natural resources within the city; and

WHEREAS, the regulation of such exploration, development, and production of natural resources in the City, including, without limitation, oil and natural gas, through the adoption of local ordinances is necessary to protect the public health, safety, and welfare; and

WHEREAS, the City Council of the City desires to protect the health, safety, and welfare of the citizens of the City through regulation of such activities in the City; and

WHEREAS, the City Council has determined that the adoption of the regulations contained in Exhibit A hereto, which is incorporated herein, is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POTH, TEXAS:

Section 1. The City hereby adopts local regulations for the exploration, development, and production of natural resources in the City, as set forth in the attached Exhibit A, which are incorporated herein.

Section 2. Any person, firm, corporation, or agent who shall violate any of the regulations set forth in Exhibit A hereto shall be guilty of a misdemeanor, and such persons shall be considered guilty of a separate offense for each and every day, or portion thereof, during which a violation of any of these regulations is committed or continued, and upon conviction of any such violation, such person shall be punished by a fine of not more than \$2,000.00 for each offense.

Section 3. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 4. All ordinances, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 5. That all rights and privileges of the City are expressly saved as to any and all violations of the provision of any ordinances repealed by this ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violation and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 6. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED, ADOPTED, APPROVED, AND EFFECTIVE THE 20th DAY of JUNE 2022.

CITY OF POTH, TEXAS

By: Chrystal Eckel
Chrystal Eckel, Mayor

ATTEST:

Rose Huizar
Rose Huizar, City Secretary

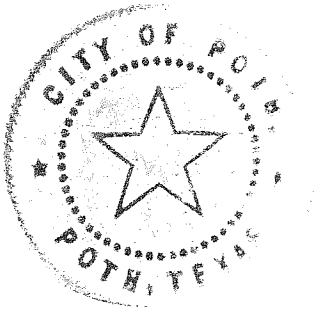


EXHIBIT A
NATURAL RESOURCES

1. Definitions.

- (a) For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandonment means abandonment as defined by the Texas Railroad Commission, and includes without limitation, the plugging of a well and the restoration of any well site as required by this Chapter.

Ambient noise level means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

Building or Structure means any facility, enclosure or structure used or intended for supporting or sheltering any use or occupancy or any portions thereof.

City means the City of Poth, Texas.

Closed loop mud system means a system utilized while drilling so that reserve pits are not used, and instead steel bins are used to collect all drilling waste.

Commercial building means a building located in a commercial district.

Commission means the Texas Railroad Commission.

Completion means the post-drilling activities necessary to produce oil, gas, or other minerals from a drilled well.

Completion of drilling, re-drilling, and re-working means the date the work is completed for the drilling, completion, re-drilling, or re-working, and the crew/crews is/are released by completing their work or contract, or by order of the operator or the crew's employer.

Daytime hours means 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. on Saturdays. Sundays and holidays are not considered Daytime hours.

Decibel (db) means a unit for measuring the intensity of a sound/noise and is equal to ten times the logarithm to the base ten of the ratio of the measured sound pressure squared to a reference pressure which is 20 micropascals.

Derrick means any portable framework, tower, mast, and/or structure which is required or used in connection with drilling, completion, or re-working a well for the production of oil or gas.

Drill site means the premises used during the drilling, completion, re-drilling, or re-working of a well or wells located thereon, and during the subsequent life of a well or wells, or for any associated operation or activity conducted thereon.

Drilling means digging, drilling, or boring a new well for the purpose of exploring for, developing, or producing oil, petroleum, natural gas or other liquid or gaseous hydrocarbons.

Drilling equipment means the derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery, and equipment used, erected, operated, or maintained for use in connection with drilling.

Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth, and which maintains a gaseous or rarefied state in standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

Gas well means any well drilled, to be drilled, completed, to be completed, or used or to be used for the intended or actual production of natural gas.

General Business district means a commercial district as defined in the zoning ordinances of the City.

Industrial or manufacturing building means a building located in a manufacturing, industrial district.

Land Farming means the depositing, spreading, or mixing of drill cuttings, drilling fluids, Drilling mud, salt water, produced water, or other waste generated by the gas drilling and production process onto the ground.

Manufacturing district means an industrial district or manufacturing district as defined in the zoning ordinances of the City.

Mineral means oil or gas but expressly excludes all other minerals unless allowed by lease expressly approved by the Council and expressly excludes wind, air, solar, and water.

Operation site means the area as identified by the Operator and approved by the City used for development, production, completion, and all operational activities associated with oil or gas production after drilling and completion activities are complete.

Operator means, for each well, the person listed on the railroad commission form W-1 or form P-4 for an oil or gas well who is, or will be, actually in charge and control of drilling, completing, maintaining, operating, pumping, or controlling any well, including, without limitation, a unit or lease operator. If the operator, as herein defined, is not the lessee under an oil or gas lease of any premises affected by the provisions of this Chapter, then such lessee shall also

be deemed to be an operator. In the event that there is no oil or gas lease relating to any premises affected by this Chapter, the owner of the fee mineral estate in the premises shall be deemed an operator.

Paying Quantities means production in quantities sufficient to yield a return to the holders of the working interest and the City's monetary amount, after deducting ad valorem and severance taxes, in excess of operating expenses, marketing expenses, and all royalties and burdens of record, which, under Texas law, are from time to time recognized as chargeable against the working interest to determine production in paying or commercial quantities. The review period for purposes of determining whether production is in paying or commercial quantities shall be based on averages obtained over a three hundred and sixty-five (365) consecutive day period. Production in less than paying or commercial quantities shall never be considered as production for purposes of the habendum clause of this lease. City reserves the right to declare a minimum Paying Quantity.

Person means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator and a fiduciary or representative of any kind.

Production means production of oil or gas, in Paying Quantities.

Property owner means real property surface record owner(s).

Protected use means a residence, commercial building, religious institution, public building, hospital building, school, public park, or an approved preliminary or final platted residential subdivision.

Public building means all buildings used or designed to and intended to be used for the purpose of assembly of persons for such purposes as deliberation, entertainment, amusement, or health care. Public buildings include, but shall not be limited to, theaters, assembly halls, auditoriums, armories, mortuary chapels, dance halls, exhibition halls, museums, gymnasiums, bowling lanes, libraries, skating rinks, courtrooms, restaurants, and hospitals.

Public park means any land area dedicated to and/or maintained by the City for traditional park-like recreation purposes but shall not include publicly or privately owned golf courses, or privately-owned amusement parks.

Re-drill means re-completion of an existing well by deepening, expanding, or sidetrack operations extending more than 150 feet from the existing well bore.

Religious institution means any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Residence means a house, duplex, apartment, townhouse, condominium, mobile home, or other building designed for dwelling purposes, including those for which a building permit has

been issued on the date that the application for a permit for mineral exploration or the drilling of a well is filed with the City.

Residential district means a residential district as defined in the zoning ordinances of the City.

Re-working means re-completion or re-entry of an existing well within the existing bore hole, or by deepening or sidetrack operations, which do not extend more than 150 feet from the existing well bore, or replacement of well liners, tubing, or casings.

Right-of-way means all public rights-of-way or streets or other public property within the City.

School means any public or private primary and secondary education facility providing education up through and including the 12th grade level and any licensed day care center, meaning a facility licensed by the State of Texas that provides care, training, education, custody, treatment, or supervision for more than six children under 14 years of age, and for less than 24-hours a day.

Street means any street, highway, sidewalk, alley, avenue, recessed parking area, or other public right-of-way, including the entire right-of-way.

Tank means a container, covered, or uncovered, used for holding or storing fluids in conjunction with the drilling, development, or completion of a well, or for the production of oil, gas, or other hydrocarbons.

Well means any hole or holes, bore or bores, from the surface of the earth to any down-hole sand, horizon, formation, strata, or depth for the purpose of producing any oil, gas, liquid hydrocarbons, brine water, sulfur water, but in no event shall include an injection well. No injection wells are allowed.

Well bore means the hole in the earth made when a well is drilled.

Workover operations means work performed in a well after its completion in an effort to secure production where there has been none, to restore production that has ceased, or to increase or enhance production.

- (b) All technical or oil and gas industry words or phrases used herein and not specifically defined shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry.

2. Permits required.

- (a) A person wanting to engage in and operate in oil or gas exploration, development, completion, or production activities of any kind or character shall apply for and obtain a permit under this Chapter and shall indicate what type of permit is requested. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent

contractor, or servant for any person to drill any well, assist in any way in the site preparation, re-working, fracturing, development, completion, or operation of any such well or to conduct any activity related to the production of oil or gas without first obtaining a permit issued by the City in accordance with this Chapter. Such activities include, but are not limited to re-working, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing of wells. A permit shall not be required for seismic surveys.

- (b) The operator must apply for and obtain a permit for the drilling, re-drilling, deepening, re-entering, activating, completing, re-working, or converting of each well.
- (c) A permit shall not constitute authority for the re-entering and drilling of an abandoned well. An operator shall obtain a new permit in accordance with the provisions of this Chapter if the operator is re-entering and drilling an abandoned well.
- (d) When a permit has been issued to the operator for the drilling, re-drilling, deepening, re-entering, activating or converting of a well, such permit shall constitute sufficient authority for drilling, , developing, completing, operation, production gathering or production maintenance, repair, re-working, testing, plugging, and abandonment of the well and/or any other activity associated with oil, gas, liquid hydrocarbon, and/or mineral exploration at the well-site; provided, however, that a new or supplemental permit shall be obtained before such well may be re-worked for purposes of re-drilling, deepening, or converting such well to a depth or use other than that set forth in the then current permit for such well.
- (e) Any person who intends to re-work a permitted well using a drilling rig, to fracture stimulate a permitted well after initial completion, or to conduct seismic surveys or other exploration activities after initial completion, shall give written notice to the mayor of the City not less than ten (10) business days before any such activity begins. The notice must identify where the activity will be conducted, and must describe the activity in detail, including whether explosive charges will be used, the duration of the activity, and the time the activity will be conducted. The notice must also provide the address and 24-hour phone number of the person or entity conducting the activity and the person in charge of the activity. If requested by the mayor of the City, the person or entity conducting the activity shall post a sign on the property giving the public notice of the activity, including the name, address, and 24-hour phone number of the person or entity conducting the activity and of the person in charge of the activity.
- (f) A permit shall automatically terminate, unless extended by the City, if drilling is not commenced within 180 days from the date of the issuance of the permit. A permit may be extended by the mayor for an additional 180 days upon request by the operator and proof that the classification of the requested permit for such location has not changed.
- (g) The permits required by this Chapter are in addition to and are not in lieu of any permit which may be required by any other provision of this Code or by any other governmental agency.

- (h) No additional permit or filing fees shall be required for:
 - (1) Any well, existing, previously permitted or approved by the City, within the corporate limits of the City, on the effective date of this Chapter, unless for re-drilling, deepening, re-entering, activating, completing, re-working, or converting of each well or for the re-entering and drilling of an abandoned well; or
 - (2) Any well on which drilling has already commenced on the effective date of this Chapter for initial drilling but shall be required for re-drilling, deepening, re-entering, activating, completing, re-working, or converting of each well or for the re-entering and drilling of an abandoned well; or
 - (3) Any well in existence, or on any well on which drilling has commenced, on land annexed into the City after the effective date of this section unless for re-drilling, deepening, re-entering, activating, completing, re-working, or converting of each well or for the re-entering and drilling of an abandoned well; or
 - (4) Any well that was planned for land annexed into the City before the 90th day before the effective date of its annexation, and one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for such well and the completed application for the initial authorization was filed before the date the annexation proceedings were instituted. A permit shall be required for re-drilling, deepening, re-entering, activating, completing, re-working, or converting of each well or for the re-entering and drilling of an abandoned well.

A person shall have 45 days after the effective date of this section or annexation into the City to designate a gas operation as a preexisting operation by filing a site plan drawn to scale that shows the proposed location of the well with respect to survey lines and the proposed associated production facilities, if any, with the mayor of the City.

- (i) No permit shall be issued for any well to be drilled within any floodway or floodplain.
- (j) By acceptance of any permit issued pursuant to this Chapter, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this Chapter. The terms of this Chapter shall be deemed to be incorporated in any permit issued pursuant to this Chapter with the same force and effect as if this Chapter was set forth verbatim in such permit and for any lease and shall control in the event of conflict within the lease and this Chapter.

3. Permit application and filing fee; notice of application.

- (a) Every application for a permit issued pursuant to this Chapter shall be in writing signed by the operator, or some person duly authorized to sign on the operator's behalf and filed with the city secretary of the City.
- (b) Every application shall be accompanied by a non-refundable permit filing fee of \$2,000.00. This is separate and apart from any lease payment for city land.
- (c) The application shall include the following information:

- (1) The date of the application and type of permit requested.
- (2) An accurate legal description of the lease property to be used for the oil or gas operation, the parcel and the production unit and name of the geologic formation as used by the commission. Property recorded by plat should reference subdivision, block, and lot numbers.
- (3) Map showing proposed transportation route and road for equipment, chemicals or waste products used or produced by the oil or gas operation.
- (4) Proposed well name.
- (5) Surface owner names and addresses of the lease property.
- (6) Mineral lessee name and address.
- (7) Operator/applicant name and address and if the operator is a corporation, the state of incorporation, and if the operator is a partnership, the names and addresses of the general partners.
- (8) Name and address of individual designated to receive notice.
- (9) Name or representative with supervisory authority over all oil or gas operation site activities and a 24-hour phone number.
- (10) Location and description of all improvements and structures within 1,000 feet of the proposed drill site.
- (11) Owner and address of each parcel of property within 1,000 feet of the proposed drill site.
- (12) A site plan of the proposed operation site showing the location of all improvements and equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, tanks, pipelines, compressors, separators, storage sheds, fencing and any access roads.
- (13) The name, address and 24-hour phone number of the person to be notified in case of an emergency.
- (14) The exact and correct acreage of the site for the well described in the permit application.
- (15) The proposed hole size, casing program and cementing program.
- (16) Copies of all reports required by the commission.

- (17) An original executed city-wide road maintenance agreement signed and approved by the City must be filed with the city secretary of the City that provides that the operator shall repair, at the operator's own expense, any damage to roads, streets, highways, or other City property caused by the use of heavy vehicles and equipment for any activity associated with the preparation, drilling, production and operation of gas wells.
 - (18) A description of public utilities required during drilling and operation.
 - (19) A description of the water source to be used during drilling and completion of the well.
 - (20) A copy of the approved commission permit to drill together with attachments and survey plats which are applicable to the drill and operation sites.
 - (21) A written report showing the pre-drilling ambient noise level measured at the nearest protected use receiver/receptor's property line or 100 feet from the nearest protected use structure (as measured to the closest exterior point of the building) whichever is closer to the receiver/receptor.
 - (22) A copy of the determination by the Texas Commission on Environmental Quality (TCEQ) of the depth of useable quality ground water at the well site.
 - (23) Evidence of insurance and security requirements under this Chapter.
 - (24) The location of all public and private water wells within a mile radius of the drill site and a proposed plan from the applicant to test wells for contamination consistent with oil and gas operations both before the beginning of operations and periodically during drilling operations and production operations thereafter. The City may require pre-drilling and post-drilling water well testing to preserve water quality.
 - (25) A statement, under oath, signed by the operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the operator or designated representative, true and correct.
 - (26) All required application and permit fees.
 - (27) Any requested variance with supporting evidence.
- (d) At least fifteen (15) days, and not more than twenty (20) days, prior to the date of filing of the permit application, the operator shall publish a copy of a notice as outlined below at the operator's expense, in one issue of a weekly newspaper with general circulation in the City. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. The notice shall read as follows:

"Notice is hereby given that, acting under and pursuant to the Ordinances of the City of Poth, Texas, on the _____ day of _____, 20__ intends to file with the City Secretary of the City of Poth, an application for a permit to drill, complete and operate a well for oil or gas upon property located at _____, Poth, Wilson County, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat Records of Wilson County, Texas or per Tax Tract Number _____ Wilson County, Texas. Additional information is available by contacting the applicant at _____."

- (e) At least 20 days prior to the date of the filing of the permit application, the operator shall, at the operator's expense, erect at least one sign, not less than three feet by three feet in size, upon the premises for which a permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway, or public thoroughfare adjacent to such property.
 - (1) The sign(s) shall substantially indicate that a permit to drill for oil or gas will be requested, the date when the permit application will be filed, and shall further set forth that additional information can be acquired by telephoning the applicant at a number to be indicated on the sign.
 - (2) All signs shall remain in place until final action on the permit application by the City's mayor, or its city council, and may then be removed by the operator.
 - (3) The continued maintenance of any such sign shall not be deemed to be a condition precedent to the holding of any public hearing or to any other official action under this Chapter.
- (f) All notice provisions contained in this section shall be deemed sufficient upon substantial compliance with this section.

4. Well setbacks.

- (a) It shall be unlawful to drill any new well, the center of which, at the surface of the ground, is located:
 - (1) Within 25 feet of any storage tank, or source of ignition;
 - (2) Within 75 feet of any public street, road, highway, or future street, right-of-way, or property line;
 - (3) Within 100 feet of any building accessory to, but not necessary to the operation of the well;
 - (4) Within 300 feet of any fresh water well;
 - (5) Within 400 feet of any industrial building; or

- (6) Within 600 feet of any protected use, except a school.
- (7) Within 1,000 feet from any school.

This provision applies to any existing protected use or industrial building, or where a building permit has been issued for a protected use or an industrial building on the date the application for a permit under this Chapter is filed with the City.

- (b) The distance referred to in (1) through (7) above shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects to the closest exterior point including out buildings, of any object or boundary listed in (1) through (7) above.
- (c) The distances set out in subsection (a) paragraphs (5) and (6) of this section may be reduced in accordance with section 5(c), but never to less than 200 feet from a protected use or industrial building, by a waiver granted by the city council of the City.

5. Permits; issuance or refusal to issue.

- (a) The mayor or designee of the City shall, within sixty (60) days after the filing of the application for a permit, determine (i) whether or not the application complies in all respects with the provisions of this Chapter, (ii) whether the proposed drill site meets the distance setbacks specified in section 4, and (iii) that the drill site is not crossed by any public streets or roads. If the application complies with such provisions, the mayor of the City shall issue a permit authorizing the drilling of the well(s) or the installation of the facilities applied for.
- (b) If the mayor of the City determines that a permit application should be denied for reasons other than lack of a required distance setback as set out in section 4 for the requested permit, the mayor of the City shall notify the operator in writing of such denial stating the reasons for the denial. Within 30 days of the date of the written decision of the mayor to deny the permit, the operator may:
 - (1) Cure those conditions that caused the denial and resubmit the application to the mayor for approval and issuance of the permit; or
 - (2) File an appeal to the city council of the City under the provisions outlined in section 21 of this ordinance.
- (c) If, however, the mayor of the City determines that all of the provisions of these regulations have been complied with by the operator but that the proposed drill site does not meet the agenda of the city council of the City which shall hold a public hearing on such application after giving notice at distance setbacks specified in section 4, then the mayor shall place the application on the least one time by publication in the official newspaper at least ten (10) days prior to the hearing and in writing by regular United States mail to all surface owners of real property and owners of buildings within 1,000 feet of the proposed drill site.

- (d) Written notices may be served by depositing the same, properly addressed and postage paid, in the City's post office to the owners and at the addresses as shown on the last approved City tax roll, or as shown in the application pursuant to section 3(c) if the latter is different from the tax roll.
- (e) The city council of the City shall review the application and any other related information. The city council of the City shall consider the following in deciding whether to grant a permit:
 - (1) Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there;
 - (2) Whether the drilling of such wells would conflict with the orderly growth and development of the City;
 - (3) Whether there are other alternative well site locations;
 - (4) Whether the operations proposed are consistent with the health, safety, and welfare of the public when and if conducted in accordance with the permit conditions to be imposed;
 - (5) Whether there is accessible access for the City's fire personnel and firefighting equipment; and
 - (6) Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the conditions of the proposed permit are reasonable and justified, balancing the following factors:
 - a. The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and
 - b. The availability of alternative drilling sites.
- (f) Following the public hearing, the city council of the City may, in its sole discretion, grant the permit upon such terms and conditions as it determines to be necessary to protect the public health and safety. The requirement for the well to be 1,000 feet from a school, 600 feet from a protected use (other than a school) or 400 feet from an industrial building may be reduced, but never to less than 200 feet by a waiver granted by the City's city council. For protection of the public health, safety and welfare, the City's city council may impose additional requirements for a reduction of such distance setbacks.
- (g) The burden of proof on all matters considered at the hearing shall be upon the applicant/operator.

- (h) The city council of the City may require an increase in the distance the well is set back from any protected use or industrial building or require any change in operation, plan, design, layout or any change in the on-site and technical regulations of this Chapter, including fencing, screening, landscaping, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by the public interest.
- (i) The city council of the City may accept, reject, or modify the application in the interest of securing compliance with this Chapter, the City Code and/or to protect the health, safety, and welfare of the community. In making its decision, the city council of the City shall have the power and authority to refuse any permit to drill any well at any particular location within the City, when by reason of such particular location and other characteristics, the drilling of such well at such particular location would be injurious to the health, safety or welfare of the inhabitants in the immediate area of the City. The decision of the city council of the City shall be final.
- (j) Each permit shall:
 - (1) By reference have incorporated therein all the provisions of this Chapter with the same force and effect as if this Chapter were copied verbatim in such permit.
 - (2) Specify the location of the proposed drill site, well, with particularity to lot number, block number, name of addition or subdivision or by a metes and bounds description, or other available correct legal description.
 - (3) Specify the routes and roads to be used by vehicles, equipment, chemicals, or waste products used or produced in oil or gas well drilling or operations, and in servicing wells.
 - (4) Contain and specify that the term of the permit shall be for a period of 180 days from the date of the permit, unless extended by the mayor for an additional period up to 180 days, and so long thereafter as oil and gas is produced or until such time as the permittee has permanently abandoned the operation of such well or facility for which the permit was issued.
 - (5) Contain and specify such other terms and provisions as may be necessary in a particular case to accomplish the purpose of this Chapter.
 - (6) Contain and specify that no actual operations shall be commenced until the operator has complied with the bond and insurance provisions of this Chapter.
 - (7) Require that the operator promptly restore to its former condition any public property damaged by the oil or gas operation.
 - (8) Recognize and acknowledge that the City has the right to inspect the operations at any reasonable time to ensure continued compliance with this Ordinance.

- (9) Each permit issued by the City's mayor or city council, pursuant to this Chapter, shall include the following language:

to the greatest extent allowed by law, the operator does hereby expressly release and discharge, all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or assigns may have, or claim to have, against the City of Poth and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, know or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under a permit issued pursuant to this Chapter.

The operator shall fully defend, protect, indemnify, and hold harmless the City of Poth, Texas, its departments, agents, officers, servants, employees, successors, assigns sponsors, or volunteers from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees and expenses incurred in defense of the City of Poth, Texas, its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the operator under a permit issued pursuant to this Chapter.

The operator agrees to indemnify and hold harmless the City of Poth, Texas, its departments, its officers, agents, servants, employees, successors, assigns, sponsors,

or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the City, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the City occurring on the drill site or operation site in the course and scope of inspecting and permitting the gas wells including, but not limited to, claims and damages arising in whole or in part from the negligence of the City occurring on the drill site or operation site in the course and scope of inspecting and permitting the gas wells. It is understood and agreed that the indemnity provided for in this section is an indemnity extended by the operator to indemnify and protect the City, and/or its departments, agents, officers, servants, or employees from the consequences of the negligence of the City, and/or its departments, agents, officers, servants, or employees, whether that negligence is the sole or contributing cause of the resultant injury, death, and/or damage.

- (k) When a permit is granted by the mayor, or the city council of the City, the city secretary of the City shall publish a notice of the granting of such permit one time in the official newspaper of the City within fifteen (15) days after the granting of the permit.

6. Bond and insurance.

- (a) A bond or letter of credit approved for form by the city attorney of the City shall be filed with the city in the amount of \$100,000.00 along with the permit application for the initial permit applied for by an operator. The bond shall be executed by the operator, as principal, and a corporate surety on the list of authorized insurance companies published by the state board of insurance of the State of Texas, as surety, in a form approved by the city attorney of the City and with the bond in favor of the City conditioned that the operator will comply with all of the terms, conditions and requirements of this Chapter and any permit issued pursuant hereto, and further conditioned that the operator will repair any damages to City roads, streets, highways, or other City property, as determined by the mayor, caused by the equipment and vehicles used by the permittee in going to and from the drill site with such repairs to be in compliance with specifications therefore prepared and provided to the operator by the mayor of the City.
- (b) *Insurance.* In addition to the letter of credit required above, the operator shall carry a policy or policies of insurance issued by an insurance company or companies

authorized to do business in the State of Texas. In the event such insurance policy or policies are cancelled, any oil and gas well permit issued under this Section shall be suspended on such date of cancellation and the Operator's right to operate under such oil and gas well permit shall immediately cease until the operator files additional insurance as required herein.

(1) General requirements applicable to all policies.

- a. The City, the City's officials, employees, agents, and officers shall be endorsed as an "additional insured" or "loss payee" on all policies, except under operator's workers compensation policy.
- b. All policies shall be written on an occurrence basis, except for environmental pollution liability (seepage and pollution coverage) and excess and umbrella liability, which may be on a claims-made basis.
- c. All policies shall be written by an insurer licensed to do business in the State of Texas.
- d. Deductibles shall be listed on the certificate of insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.
- e. Certificates of Insurance shall be delivered to the City of Poth, 200 N PO Box 579, Carroll St, Poth, TX 78147 , Attn: City Secretary's Office, evidencing all the required coverages, including endorsements, prior to the issuance of an oil and gas well permit under this Section.
- f. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
- g. Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.
- h. Each policy shall be endorsed to provide the city a minimum 30-day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten-day notice shall be acceptable in the event of non-payment of premium.
- i. During the term of any oil and gas well permit issued hereunder, the operator shall report, in writing, within 30 days of the occurrence, to the city

manager, any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.

j. Upon request, certified copies of all insurance policies shall be furnished to the City.

(2) Standard commercial general liability policy. This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractor's protective liability, accidental death and personal injury. This coverage shall be a minimum combined single limit of \$1,000,000 per occurrence for bodily injury, accidental death, and property injury.

(3). Excess or umbrella liability.

\$5,000,000	Excess, if the operator has a stand-alone environmental pollution liability (EPL) policy.
\$10,000,000	Excess, if the operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If seepage and pollution coverage is written on a "claims made" basis, the operator must maintain continuous coverage and purchase extended coverage period insurance when necessary.

(4) . Environmental pollution liability coverage. Operator shall purchase and maintain in force for the duration of any oil and gas well permit issued hereunder, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least \$1,000,000 per loss, with an annual aggregate of at least \$10,000,000.

Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants, or pollutants.

(5). Control of well coverage. The policy should cover the cost of controlling a well that is out of control, redrilling or restoration expenses, seepage, and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment, experts, and evacuation of residents.

\$5,000,000	per occurrence/no aggregate, if available, otherwise an aggregate of ten million (\$10,000,000) dollars.
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(6). Workers' compensation and employers' liability insurance.

- a. Workers' compensation benefits shall be Texas statutory limits.
- b. Employers' liability shall be a minimum of \$500,000.00 per accident.
- c. Such coverage shall include a waiver of subrogation in favor of the City of Poth and provide coverage in accordance with applicable state and federal laws.

(7). Automobile liability insurance.

- a. Combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- b. Coverage must include all owned, hired and not-owned automobiles.

(8). Certificates of insurance.

- a. The company must be admitted or approved to do business in the State of Texas.
- b. The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO or an equivalent policy form acceptable to the City, with the exception of environmental pollution liability and control of well coverage.
- c. Set forth all endorsements and insurance coverage according to requirements and instructions contained herein.
- d. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the city. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCE WRITTEN NOTICE TO THE OWNER AND THE CITY,

EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE, TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED".

e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

(9) The Operator's insurance shall be primary insurance in all respects.

(10) Any subcontractor working on, near or at the Well of any activity incidental thereto while on the City's property shall also obtain and provide proof to the City of the same insurance requirements as Operator.

7. Suspension or termination of permit; effect.

- (a) If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a permit issued pursuant to this Chapter (including any requirement incorporated by reference as part of the permit), the mayor shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than thirty (30) days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this Chapter.
- (b) If the operator fails to correct the noncompliance within thirty (30) days from the date of the notice, the mayor of the City may suspend or revoke the permit pursuant to the provisions of this Chapter.
- (c) No person shall carry on any operations performed under the terms of the permit issued under this Chapter during any period of any permit suspension or revocation or pending a review of the decision or order of the City in suspending or revoking the permit. Nothing contained herein shall be construed to prevent the necessary, diligent, and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the permit was ordered for the safety of persons or as required by the commission.
- (d) If the operator does not cure the noncompliance within the time specified in this Chapter, the mayor of the City, upon written notice to the operator, may notify the commission and request that the commission take any appropriate action.
- (e) Operator may, within 30 days of the date of the decision of the City's mayor in writing to suspend or revoke a permit, file an appeal to the city council of the City under the provisions outlined in this pursuant to section 21, appeals.

- (f) If an application for a permit is denied by the City's mayor, nothing herein contained shall prevent a new permit application from being submitted to the City's mayor for the same well.

8. Amended permits.

- (a) An operator may submit an application to the city secretary of the City to amend an existing permit to commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) the existing permit, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing permit, or to otherwise amend the existing permit.
- (b) Applications for amended permits shall be in writing, shall be signed by the operator, and shall include the following:
 - (1) The fee for filing the application to amend the permit in the amount of \$1,000.00;
 - (2) A description of the proposed amendments;
 - (3) Any changes to the information submitted with the application for the existing permit (if such information has not previously been provided to the City);
 - (4) Such additional information as is reasonably required by the City's mayor to demonstrate compliance with the applicable permit; and
 - (5) Such additional information as is reasonably required by the City's mayor to prevent imminent destruction of property or injury to persons.
- (c) All applications for amended permits filed with the city secretary of the City shall be forwarded to the mayor for review. Incomplete applications may be returned to the applicant, in which case the City shall provide a written explanation of the deficiencies; however, the City shall retain the application fee. The City may return any application as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator.
- (d) If the activities proposed by the amendment are not materially different from the activities covered by the existing permit, and if the proposed activities are in conformance with the applicable permit, then the City's mayor shall approve the amendment within thirty (30) days after the application is filed.
- (e) If the activities proposed by the amendment are materially different from the activities covered by the existing permit, and if the proposed activities are in conformance with the applicable permit, then the mayor shall approve the amendment within sixty (60) days after the application is filed. If, however, the activities proposed by the amendment are materially different and, in the judgment of the mayor, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities

covered by the existing permit or that was not otherwise taken into consideration by the existing permit, the mayor may require the amendment to be processed as a new permit application.

- (f) The failure of the City's mayor to review and issue an amended permit within the time limits specified above shall not cause the application for the amended permit to be deemed approved.
- (g) The decision of the City's mayor to deny an amendment to a permit shall be provided to the operator in writing within ten (10) days after the decision, including an explanation of the basis for the decision. The operator may appeal any such denial to the city council of the City.

9. Use of streets and alleys.

- (a) No operator shall make any excavations for any purpose or construct any lines for conveyance of fuel, water, or minerals on, under or through the streets or alleys or other land of the City.
- (b) The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any street as herein defined, or leaving upon any street any earth or other material or obstruction, shall not be permitted unless such persons shall first have obtained written permission from the City's mayor, and then only in compliance with specifications established by said mayor.
- (c) An operator shall use only the approved routes and roads designated in the permit for vehicles, equipment, chemicals, or waste products used or produced in the oil or gas well drilling or operations, or in the servicing of wells.
- (d) An operator shall repair, at the operator's own expense, any damage to roads, streets, highways, or other City property caused by the use of heavy vehicles and equipment for any activity associated with the preparation, drilling, production, and operation of gas wells.

10. Streets and alleys; obstructions; permits.

No well shall be drilled and no permit shall be issued for any well to be drilled at any location which is within any of the streets or alleys of the City and/or streets or alleys shown by the master plan of the City, and no street or alley shall be blocked or encumbered or closed in any drilling or production operation or for any mineral exploration except by written permission of the City's mayor, and then only temporarily.

11. Private roads and drill sites.

Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site must be at least ten feet wide, have an overhead clearance of fourteen (14) feet and be surfaced with asphalt, crushed rock, or gravel, and maintained to prevent dust and

mud. No caliche shall be allowed without the express written consent of the City. It is the operator's responsibility to make sure that such private roads meet these requirements. In particular cases, the requirements governing surfacing of private roads may be altered at the discretion of the mayor after consideration of all circumstances, including, but not limited to, the following:

- (a) Distances from public streets and highways;
- (b) Distances from adjoining and nearby property owners whose surface rights are not leased by the operation;
- (c) The purpose for which the property of such owners is or may be used;
- (d) Topographical features;
- (e) Nature of the soil; and
- (f) Exposure to wind.

12. Drilling rigs; removal; watchmen.

- (a) The drilling rig and other structures, materials and drilling equipment shall be removed by the operator from the premises within thirty (30) days from the date of completion of the well, as shown on the appropriate commission form, and thereafter, when necessary, such completed well shall be served by portable rigs, which shall be removed from the premises within fifteen (15) days from the completion of the servicing operation. At all times from the start of erection of a drilling rig, until the well is abandoned and plugged or completed as a producer and enclosed as herein provided, the operator shall keep a watchman on duty on the premises at all times when other workers or permittee are not on such premises.
- (b) In the event that any operator is granted a permit to drill or conduct mineral exploration within the City's corporate limits, the operator shall proceed with the drilling operations with the highest degree of care so as not to injure adjoining property or persons in any manner. All wastes must be contained within the drill site, as set out hereinafter, without any subsurface disposal and upon the completion of such drilling operations, the grounds around the well shall be immediately cleared of all drilling mud and/or all oil, salt water or water, and shall be made to conform in appearance to the lands in the neighborhood wherein such drilling operations are so conducted.
- (c) Caliche drilling pads shall be removed within 30 days following abandonment of the well site.
- (d) Steel slush pits shall be used in connection with all drilling and reworking operations. Such pits and contents shall be removed from the premises and drill site within 30 days after completion of the well. No earthen slush pits shall be used. However, cuttings from the drilling operations may be disposed of on the drill site according to the following requirements:

- (1) Disposal shall be in a pit lined with black six (6) millimeter PVC lining material.
 - (2) Cuttings shall then be covered with not less than twenty-four (24) inches of topsoil and the surface otherwise brought back to the same level and substantially the same appearance as the surrounding ground.
- (e) All wells shall be abandoned in accordance with the rules of the commission and in accordance with the provisions of this Chapter. The operator abandoning a well shall be responsible for the restoration of the well site to its original condition as nearly as practicable. All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

13. Operations and equipment; practices and standards.

- (a) All drilling, development, completion, and other operations at any well performed by an operator under this Chapter shall be conducted in accordance with the generally accepted standards and practices of a reasonable and prudent operation in the Eagle Ford Shale Area. All casing, valves, and blow-out preventers, drilling fluid, tubing, well head, Christmas tree, and well head connections shall be of a type and quality consistent with such standards and practices. Setting and cementing casing and running drill-stem tests shall be performed in a manner and at a time consistent with the standards and practices of a reasonable and prudent operator in the Eagle Ford Shale Area. Each operator under this section shall observe and follow the rules and regulations of the commission. All of the installations shall be done in accordance with accepted practices for fire prevention purposes.
- (b) All drilling and operations shall comply with the following noise regulations:
- (1) No well shall be drilled, redrilled or any equipment operated at any location within the City in such manner so as to create any noise which causes the exterior noise level when measured at the nearest protected use receiver's/receptor's property line or 100 feet from the nearest protected use structure (as measured to the closest exterior point of the building), whichever is closer to the receiver/receptor, that exceeds the ambient noise level by more than 15 decibels during Daytime hours and more than 15 decibels during nighttime hours. Fracking operations may not exceed the ambient noise level by more than 15 decibels. Backflow operations may not exceed the ambient noise level by more than 15 decibels during nighttime hours.
 - (2) The operator shall be responsible for establishing and reporting to the City the pre-drilling ambient noise level prior to the issuance of a permit. Once the drilling is complete, the operator shall be required to establish a new ambient noise level prior to the installation of any new noise generation equipment.

- (3) Adjustment to the noise standards as set forth above in subsection (1) of this section may be permitted in accordance with the following but shall never exceed 85 decibels:

Permitted Increase (db)	Duration of Increase (Minutes)*
30	15
40	5
45	1
50	less than 1

*Cumulative minutes during any one hour

- (4) All workover operations shall be restricted to Daytime hours.
- (5) The exterior noise level generated by the drilling, redrilling or other operations of all gas wells located within 1,000 feet of a protected use shall be continuously monitored to ensure compliance. The cost of such monitoring shall be borne by the operator.
- (6) Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the mayor may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and shall be subject to approval by the City's fire department.
- (7) The sound level meter used in conducting noise evaluations shall meet the American National Standard Institute's standard for sound meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.
- (8) A citation shall be issued for the failure to correct the violation within twenty-four (24) hours of the notice of violation by the City's mayor or his designated representative.
- (9) During nighttime operations in residential and commercial districts, the operation of vehicle audible back-up alarms shall be prohibited or replaced with approved non-auditory signaling systems, such as spotters or flagmen. Except for emergency situations, deliveries of pipe, casing and heavy loads in such areas shall be limited to Daytime hours. In such districts, the derrick man and driller shall communicate by walkie-talkie or other non-disruptive means and horns may not be used to signal for connection or to summon crew (except that a horn may be used for emergency purposes only). The operator shall conduct onsite meetings to inform all personnel of nighttime operations noise control requirement.

- (c) Drilling and completion operations shall be conducted in such a manner that percolating or ground water will not be adversely affected, including the prevention of vertical movement of percolating water.
- (d) All oil and gas drilling, completion, and production operations shall be conducted in such a manner as to minimize dust, noise, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of oil, gas, and other hydrocarbon substances. A closed loop mud system shall be used in conjunction with all drilling and reworking operations on a drill site located in a residential or commercial district unless waived by the city council of the City.
- (e) Except in case of emergency, no materials, equipment, tools, or pipe used for drilling or production operations shall be delivered to or removed from a site located in a residential or commercial district except between the hours of 7:00 a.m. to 9:00 p.m. on any day. On drill stem tests, on a site located in such a residential or commercial district, only one trip will be allowed at night between 9:00 p.m. and 7:00 a.m. unless an emergency exists.
- (f) Firefighting apparatus and supplies as approved by the fire department of the City shall be maintained on the drilling site at all times during drilling and production operations. No refining process or any process for the extraction of products from natural gas shall be carried on at the drill site, except that a dehydrator and separator may be maintained on the drill site for the separation of liquids from natural gas. Any such separator shall serve only one well.
- (g) All drilling, completion, and production equipment used shall be so constructed and operated so that noise, vibration, dust, odor or other harmful or annoying substances or effects will be minimized by the operations carried on at any drilling site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in methods of production shall be adopted as they, from time to time, become available if capable of reducing factors of nuisance or annoyance. There shall be no venting of gas into the open air except as allowed by the railroad commission in residential areas.
- (h) The well site, drill site, tank site, tank battery site, pump station site, or compressor site shall not be used for the storage of pipe, equipment, or materials except during the drilling or servicing of the well, tanks, pump stations or compressor stations.
- (i) No refinery, dehydrating or absorption plant of any kind shall be constructed, established, or maintained on the premises at any time. This shall not be deemed to exclude a simple gas separation process.
- (j) All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.

- (k) No lights located on any drilling, completion, or operation site shall be directed in such a manner that they shine directly on public roads, adjacent property, or property in the general vicinity of the drill or operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within 300 feet.
- (l) Exhaust from any internal combustion engine, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of non-combustible materials sufficient to suppress noise and prevent the escape of noxious gases, fumes or ignited carbon or soot.
- (m) All formation fracturing operations shall be conducted during daylight hours unless the operator has notified the mayor that fracturing will occur before or after daylight hours to meet safety requirements. The following requirements shall apply to all fracture stimulation operations performed on a well within 1,000 feet of a protected use:
 - (1) At least forty-eight (48) hours before operations are commenced, the operator shall post a sign at the entrance of the well site advising the public of the date the operations will commence;
 - (2) "Flowback" operations to recover fluids used during fracture stimulation shall only be performed during daylight hours, unless the City's mayor permits such operations during non-daylight hours;
 - (3) A watchman shall be required at all times during such operations; and
 - (4) At no time shall the well be allowed to flow or vent directly into the atmosphere without first directing the flow through separation equipment or into a portable tank.
- (n) Signs.
 - (1) A sign shall be immediately and prominently displayed at the gate of the temporary and permanent site fencing erected pursuant to Sec. 16. Such sign shall be of durable material, maintained in good condition and, unless otherwise required by the commission, shall have a surface area of not less than two square feet nor more than four square feet and shall be lettered with the following:
 - a. Well name and number.
 - b. Name of operator.
 - c. Telephone numbers of the person responsible for the well who may be contacted in case of emergency.

- (2) Permanent weatherproof signs reading "Danger No Smoking Allowed" shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by the fire chief of the City. Sign lettering shall be four inches in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the fire department and the operator, and the well and lease designations required by the commission.
- (o) **NO SALTWATER DISPOSAL WELLS, WASTE DISPOSAL WELLS OR INJECTION WELLS SHALL BE LOCATED IN THE CITY OR ON CITY PROPERTY. ALL LANDFARMING IS PROHIBITED IN THE CITY OR ON CITY OWNED PROPERTY.**
- (p) Each well must have a shutoff valve to terminate the well's production. The fire department shall have access to the well site to provide fire protection in an emergency.
- (q) The operator shall provide forty-eight (48)-hour notice to the mayor or his designated representative before the start of drilling and/or fracturing operations.

14. Cleanliness and sanitation.

- (a) The premises shall be kept in a clean and sanitary condition. The operator shall prevent any mud, wastewater, oil, slush, fluids, or other waste matters from flowing into the alleys, streets, lots, or leases within the corporate limits of the City.
- (b) All premises shall be kept clear of high grass, weeds and combustible trash within a radius of 100 feet around any oil tank, tanks, or producing wells. All waste shall be disposed of in such manner as to comply with the air and water pollution control regulations of the state, this Code, and any other applicable ordinance of the City; and shall be removed as required in Sec. 12.

15. Storage tanks and separators; types and requirements.

- (a) It shall be unlawful and an offense for any person to use, construct or operate in connection with any producing well within the City limits, any crude oil storage tanks, except to the extent of two low-type tanks for oil storage, not exceeding a 500-barrel capacity for each well connected thereto or, in the alternative, low type tanks of sufficient capacity to hold twenty-four (24) hours of production from such well; the tanks to be so constructed and maintained as closed tanks and properly vented. An operator may use, construct, and operate a steel conventional separator, heater treater, vapor recovery unit and such other tanks and appurtenances as are necessary for treating oil with each of such facilities, to be so constructed and maintained according to API standards. Each oil/gas separator shall be equipped with both a pressure relief safety valve. All such tanks shall be placed above ground, and the tanks shall be placed upon a suitable earth or concrete pad.

- (b) The use of a central tank battery is permitted so long as not more than two tanks as specified are used for each well connected to the battery plus one 500-barrel water tank.
- (c) The tank or tanks shall be enclosed within a metal dike, or a dike constructed of compacted earth; sufficient water shall be used during construction of an earthen dike to assure adequate compaction. The metal or earthen dike shall have a minimum capacity equal to two times the volume of the tanks enclosed.
- (d) It shall be unlawful and an offense for any person to locate a storage tank or separator site nearer than six hundred (600) feet to any protected use or permanent accessory building used in connection therewith, within the City.

16. Fences, walls, gates, and landscaping required.

- (a) Fences shall not be required on drill sites during initial drilling, completion, or reworking operations as long as twenty-four (24)-hour on-site supervision is provided. A secured entrance gate shall be required. All gates are to be kept locked when the operator or its employees are not within the enclosure.
- (b) Within thirty (30) days after production has been established, all operation sites shall be completely enclosed by a permanent chain link fence, masonry wall, or other approved fencing material in accordance with following requirements:
 - (1) A solid masonry wall a minimum of eight (8) feet but not to exceed ten (10) feet in height shall enclose all completed wells and tanks located within 1,000 feet of any protected use or permanent accessory building used in connection therewith.
 - (2) A chain link fence, a minimum of eight (8) feet in height with three and one-half inch (3 ½) mesh interwoven with opaque slats, shall enclose all completed wells and tanks that are not located within 1,000 feet of the land uses specified in subsection (1) above.
- (c) When masonry walls are required, the walls shall comply with the following specifications:

All walls (either site constructed or prefabricated) shall be of masonry or other like material approved by the City's mayor. All walls used to enclose in whole or in part any drilling or production site shall be constructed in accordance with standard engineering practices and shall meet the following specifications:

 - (1) The wall shall be of a design compatible with the facilities, buildings, and structures on and adjacent to the site; and
 - (2) The wall shall be at least eight (8) feet in height.
- (d) When chain link fences are required, the fences shall comply with the following specifications:

- (1) The fence fabric shall be at least eight (8) feet in height;
 - (2) Support posts shall be set in concrete and shall be imbedded into the ground to a depth sufficient to maintain the stability of the fence; provided, however, so long as stability of the fence is maintained, temporary fence posts shall not be required to be set in concrete;
 - (3) The chain link fabric shall be galvanized steel wire with a minimum plating of one and two-tenths (1.2) ounces of zinc per square foot of surface area, or shall be coated with vinyl or plastic material, approved by the City's mayor;
 - (4) The chain link fence fabric shall have a minimum thickness of 11 gauge;
 - (5) The chain link fabric shall be two (2) inch mesh; provided, however, three and one-half (3 ½) inch mesh may be used on any fence where the fabric is interwoven with artificial screening material approved by the mayor;
 - (6) Posts and rails shall be standard galvanized, welded pipe, schedule 40 or thicker; provided, however, that nongalvanized drill pipe may be used if it exceeds schedule 40 in thickness;
 - (7) All pipes and other ferrous parts, except chain link fabric and drill pipe, shall be galvanized inside and outside with a plating which contains a minimum of one and two-tenths (1.2) ounces of zinc per square foot of surface area;
 - (8) Tension rods shall be three-eighths-inch round steel bolt stock. Adjustable tighteners shall be turnbuckle or equivalent having a six-inch minimum take-up. Tension bars shall have a minimum thickness of one-fourth by three-fourths inch; and
 - (9) All fences shall have security extension arms at the top of such fences and such security extension arms shall be strung with at least two strands of galvanized barbed wire.
- (e) All chain-link fences and masonry walls shall be equipped with at least one (1) gate. The gate shall meet the following specifications:
- (1) Each gate shall be not less than twelve (12) feet wide and be composed of two (2) gates, each of which is not less than six (6) feet wide, or one sliding gate not less than twelve (12) feet wide. If two (2) gates are used, gates shall latch and lock in the center of the span;
 - (2) The gates shall be of chain link construction that meets the applicable specifications, or of other approved material that, for safety reasons, shall be at least as secure as a chain link fence;

- (3) The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site; and
- (4) The operator must provide the City's fire chief with a "Knox Padlock" or "Knox Box with a key" to access the well site to be used only in case of an emergency.
- (f) The operator shall maintain all walls, fencing and gates in good condition at all times. Gates must be kept securely locked when the operator or its employees are not within the enclosure.
- (g) When a well site is located within 1,000 feet of any protected use or permanent accessory building used in connection therewith, landscaping shall be required along the masonry wall around the well site. Such landscaping shall consist of suitable screening shrubs that complement the architectural character of the surrounding neighborhood. Screening shrubs shall be installed completely around the well site and shall be a minimum of three (3) feet in height at planting, shall have the potential to grow to a mature height of a minimum of six (6) feet and must have an installed irrigation system that provides total water coverage to all plant materials. The vegetation shall be kept in an attractive state and in good condition at all times by the operator. Landscape and irrigation plans shall be submitted to the City's mayor for approval.
- (h) The requirements for a masonry wall, landscaping and an irrigation system may be modified or waived by the mayor after consideration of all of the circumstances including, but not limited to, the nature of the surrounding land uses and the potential impact of the well site on such surrounding land uses if the masonry wall, landscaping, and irrigation system are not required.

17. Fire prevention; escape of gas; burning; flaring; general requirements.

- (a) Any operator engaged in the drilling or operation of an oil and/or gas well or the operation of any facility used in conjunction with the production of oil and/or gas within the corporate limits of the City shall take reasonable precautions to prevent gas from escaping into the air, and shall not flare or burn gas from a torch or any similar means within the corporate limits of the City; provided, gas may be burned for a limited time when necessary to complete any oil and/or gas well upon the original completion or upon the recompletion or workover jobs upon oil and/or gas wells, so long as the same does not constitute a fire hazard to the property of others within the vicinity of such oil and/or gas well.
- (b) Each operator shall fully comply with "Special Order Amending Rule 36 of the General Conservation Rules of Statewide Application State of Texas Having Reference to Oil and Gas Operation in Hydrogen Sulfide Areas," adopted by the Railroad Commission of Texas, Oil and Gas Division, in Oil and Gas Docket No. 20-65, 354 on March 15, 1976.

18. Flow lines and gathering lines.

- (a) Each operator shall place an identifying sign at each point where a flow line or gas gathering line crosses any public street or road and it shall be unlawful and a misdemeanor for any person to remove, destroy or deface any such sign.
- (b) Each operator shall also place a warning sign at each point where a line carrying H₂S gas crosses any public street or road and it shall be unlawful and a misdemeanor to remove, destroy or deface any such sign.
- (c) No operator shall make any excavation for any purposes or construct any lines for conveyance of fuel, water, or minerals, on, under, or through the streets and alleys of the City without express permission of the mayor, in writing, and then only in strict compliance with this Chapter and any applicable ordinance of the City; provided, however, emergency repairs may be made without such permission when in the good faith opinion of the operator, the delay required to obtain written permission would involve a hazard to person or property.
- (d) The gathering lines and flow lines hereinafter installed in the corporate limits of the City, for the purpose of transporting oil, gas and/or water in conjunction with the operation of any well, tank or tank battery, gathering system; are hereby limited to a maximum operating gauge pressure of 1,500 psi unless otherwise specifically approved by the City's mayor. The location of any such gathering lines and flow lines, if not specified in the permit, must be specifically approved by the mayor.
- (e) The pipeline shall be tested in accordance with applicable standards prior to being placed in service.
- (f) The companies responsible for any and all pipelines now existent or hereinafter installed within the corporate limits are hereby required to furnish the City an "as-built" plot plan showing the location of all their facilities for permanent record with the City.
- (g) All pipelines within the corporate limits, designed or utilized to transport oil, gas, or water in connection with the production and transportation of oil and/or gas or for repressurizing operations, shall hereafter be installed with the minimum of cover or backfill specified by the then applicable ASA code for such pipelines.
- (h) The mayor is authorized to approve a lesser cover or specify a greater cover or backfill in special cases when in the opinion of the mayor, such variation is advisable and/or will not increase the degree of hazard.
- (i) The requirements for construction in public right-of-way must conform to ordinances of the city regulating such construction.

- (j) The digging up, breaking, excavating, tunneling, undermining, breaking up, damaging of any street as herein defined, or leaving upon any street any earth or other material or obstruction, shall not be permitted unless such persons shall first have obtained written permission from the mayor, provided, however, emergency repairs may be made without such permission when in the good faith opinion of the operator the delay required to obtain the written permission would involve a hazard to person or property.

19. Periodic reports and Incident reporting.

- (a) The operator shall notify the City's mayor of any changes to the following information within five (5) business days after the change occurs:
 - (1) The name, address, and phone number of the operator; and
 - (2) The name, address, and phone number of the person designated to receive notices from the City (which person must be a resident of Texas that can be served in person or by registered or certified mail).
- (b) The operator shall notify the mayor of any change to the name, address, and 24-hour phone number of the person(s) with supervisory authority over drilling or operations activities within one business day.
- (c) The operator shall provide a copy of any "incident reports" or written complaints submitted to the railroad commission within 30 days after the operator has notice of the existence of such reports or complaints.
- (d) Notwithstanding the provisions of (c) above, the Operator shall notify the City within twenty-four (24) hours of any incident involving injury or death to a person or property damage to City property.
- (e) Beginning on December 31 after each well is completed and continuing on each December 31 thereafter until the operator notifies the City's mayor that the well has been abandoned and the site restored, the operator shall submit a written report to the City's mayor identifying any changes to the information that was included in the application for the applicable permit that have not been previously reported to the City.

20. Violations.

Subject to section 2, it shall be unlawful and an offense for any person to violate or fail to comply with any provision hereof, whether or not such section contains the specific language that such violation or failure to comply is unlawful and is an offense.

21. Appeals.

- (a) The city council of the City shall have and exercise the power to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the issuance of a permit, or the revocation or suspension of any permit issued hereunder as provided by this Chapter. Any person or entity whose application is denied by the mayor (other than for distance requirements set out in this Chapter) or whose permit is suspended or revoked or whose well or equipment is deemed by the mayor to be abandoned may, within thirty (30) days of the date of the written decision of the City's mayor file an appeal to the city council of the City in accordance with the following procedure:
 - (1) An appeal shall be in writing and shall be filed in triplicate with the city secretary of the City. The grounds for appeal must be set forth specifically, and the error described, by the appellant.
 - (2) Within forty-five (45) days of receipt of the records, the City's city secretary shall transmit all papers involved in the proceeding, place the matter on the City's city council agenda for hearing and give notice by mail of the time, place, and purpose thereof to appellant and any other party who has requested in writing to be so notified. No other notice need be given.
- (b) Appeal fees shall be required for every appeal in the amount of \$500.00.
- (c) Following the public hearing, the City's city council may in its sole discretion uphold, modify, or reverse the decision of the mayor.

22. Penalty.

Any person who shall violate the provisions of this Chapter, the provisions of a permit issued pursuant hereto, or who shall fail to comply with the terms hereof, shall be guilty of a misdemeanor and shall on conviction thereof, be fined in any sum not less than \$500.00 or more than \$2,000.00, and the violation of each separate provision of this Chapter, and of such permit, shall be considered a separate offense, and each day's violation of each separate provision thereof shall be considered a separate offense.