



ORDINANCE NO. 2007-25
amending Ordinance 2006-50 and Ordinance 2006-28

GAS DRILLING ORDINANCE

Article I. PURPOSE

The exploration, development, and production of gas, oil/petroleum, and other natural resources in the City is an activity which necessitates reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to peaceably enjoy their property and its benefits and revenues.

It is hereby declared to be the purpose of this Ordinance to establish reasonable and uniform limitations, safeguards and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of gas, oil, and other substances produced in association with gas and oil/petroleum within the City to protect the health, safety and general welfare of the public, minimize the potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources.

Article II. DEFINITIONS

All technical industry words or phrases related to the drilling and production of gas, oil/petroleum wells, and other natural resources not specifically defined in this Ordinance shall have the meanings customarily attributable thereto by prudent and reasonable Gas & Oil Industry Operators.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Abandonment: as defined by the Texas Railroad Commission and includes the plugging of the well and the restoration of any well site as required by this Ordinance.

Blowout Preventer: a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe, or other tubular goods which completely close the top of the casing and are designed for preventing blowouts.

Building: any structure used or intended for supporting or sheltering any use or occupancy. The term "building" shall be construed as if followed by the words "or portions thereof."

Cathodic Protection: an electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection current is supplied by sacrificial anode materials or by an impressed current system.

City: the City of Midlothian, Texas.

City Code or Ordinances: the Codes, Ordinances and Regulations of the City of Midlothian, Texas.

City Attorney: the City Attorney of the City of Midlothian, Texas.

Commission: the Texas Railroad Commission.

Completion of drilling, re-drilling and re-working: the date the work is completed for the drilling, re-drilling or re-working and the crew is released by completing their work or contract or by their employer.

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

Drilling: digging or boring a new well for the purpose of exploring for, developing or producing gas, oil or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.

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

Drill Site: the premises used during the drilling or re-working of a well or wells located there and subsequent life of a well or wells or any associated operation.

Educational Facility: any public and private, primary, secondary, and collegiate educational facilities providing education and any licensed day care centers, meaning a facility licensed by the State of Texas or by the City of Midlothian, Texas that provides care, training, education, custody, treatment or supervision of children under 14 years of age, and for less than 24 hours per day.

Exploration: geologic or geophysical activities, including seismic surveys, related to the search for gas & oil or other subsurface hydrocarbons.

Fire Department: the Fire Department of the City of Midlothian, Texas.

Gas: any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas and may include other natural minerals that come out from under the earth.

Gas & Oil Well Drilling Permit: a permit is required on all gas wells and every gas well must be located at least six hundred (600) feet of an existing residence, religious institution, public building, hospital building, educational, or public park, unless certain requirements within this Ordinance are met and the proposed well site shall be at least two (2) acres in area.

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

Inspector: the Gas or Oil Inspector designated by the City Manager of Midlothian, Texas.

Lease: any tract of land subject to an oil, gas, and mineral lease or other oil, gas, or other natural resource development contract, or any unit composed of several tracts and leases but operated as one (1) lease, and any tract of land in which the minerals are owned by an operator or someone holding under it or him, but which, due to the fee royalty ownership is developed and operated as a separate tract.

Oil: liquid petroleum as it comes out of the ground as distinguished from refined oils manufactured out of it. Also known as crude petroleum oil and may include other natural minerals that come out from under the earth.

Oil Well: any well which produces one (1) barrel or more crude petroleum oil to each 100,000 cubic feet of natural gas.

Operation Site: the area used for development and production and all operational activities associated with gas after drilling activities are complete.

Operator: the person listed on the Texas Railroad Commission Form W-1 or Form P-4 for a gas or oil well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit Operator. If the Operator, as herein defined, is not the lessee under a gas or oil lease of any premises affected by the provisions of this Ordinance, then such lessee shall also be deemed to be an Operator. In the event that there is no gas or oil lease relating to any premises affected by this Ordinance, the owner of the fee mineral estate in the premises shall be deemed an Operator.

Person: a natural person, a corporation, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind (can be singular or plural).

Public Building: all buildings used or designed to and intended to be used for the purpose of assembly of persons for such purposes as education, 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, educational facilities, colleges/universities, restaurants, hospitals.

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

Re-drill: re-completion of an existing well by deepening or sidetrack operations extending more than one hundred fifty (150) feet from the existing well bore.

Religious Institution: 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: 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 the application for a Gas & Oil Well Permit is filed with the Development Services Department.

Re-working: re-completion or re-entry of an existing well by deepening or sidetrack operations which do not extend more than one hundred fifty (150) feet from the existing well bore.

Right-of-way: public rights-of-way including streets, easements and other property within the City and which is dedicated to the use and benefit of the public.

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

Tank: a container, covered or uncovered, used in conjunction with the drilling or production of Gas & Oil or other hydrocarbons for holding or storing fluids.

Technical Advisor: person(s) familiar with and educated in the Gas & Oil Industry or the law as it relates to gas matters who may be retained from time to time by the City.

Well: a hole or holes, bore or bores, to any horizon, formation, or strata for the purpose of producing gas & oil, liquid hydrocarbon, brine water or sulfur water, or for use as an injection well for secondary recovery, disposal or production of gas, oil, and other natural resources, or other hydrocarbons from the earth.

ARTICLE III. GAS & OIL INSPECTOR AND AGENT

- A. The City Manager shall designate a Gas & Oil Inspector who demonstrates a proven background in the drilling, production, and operation of gas & oil wells.
- B. The Inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this Ordinance and its particular provisions, including, but not limited to:
 - 1. The authority to enter and inspect any premises covered by the provisions of this Ordinance to determine compliance with the provisions of this Ordinance and all applicable laws, rules, regulations, standards or directives of the State.
 - 2. Conducting periodic inspections at least once a year of all permitted wells in the City to determine that the wells are operating in accordance within proper safety parameters as set out in this Ordinance.
 - 3. Requesting and receiving any records, including any records sent to the Commission, logs, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable Gas & Oil Well Permit.
- C. Failure of any person to comply with any such order or directive issued by the appointed Inspector or permit access to sites or provide requested material shall constitute a violation and subject to the fines and penalties described in this Ordinance.
- D. Every Operator of any well shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail.

ARTICLE IV. LOCATION CRITERIA

- A. Per the Use Table located in Section 4.4 of the City’s Zoning Ordinance (Ordinance 89-13, as amended), a Gas & Oil Well Specific Use Permit (SUP) is only allowed in the Agricultural (A), Single Family One (SF-1), Residential Two and a Half (R2.5), Residential Three (R3), Commercial (C), Light Industrial (LI), Medium Industrial (MI), and Heavy Industrial (HI) Districts.

ARTICLE V. GAS & OIL WELL SPECIFIC USE PERMIT (SUP) AND ASSOCIATED GAS & OIL WELL DRILLING PERMIT

- A. A person wanting to engage in and operate in gas or oil production activities shall first apply for a Specific Use Permit (SUP) and follow the procedures as stated in Section 6.4 (Specific Use Permits) of the Zoning Ordinance.
 - 1. An application for a Gas & Oil Well Drilling Permit can be received and reviewed at the same time as the required Specific Use Permit (SUP).
 - 2. This permit will not be issued until the associated Specific Use Permit (SUP) is approved by City Council.
 - 3. This Ordinance shall provide the minimum standards by which the Specific Use Permit (SUP) review will be based upon; although, with the exception of maximum noise levels requirements, the associated Specific Use Permit (SUP) may deviate from secondary standards contained in this Ordinance (fencing, landscaping, etc.) if said SUP standards are deemed by City Council to be equivalent or superior to the standards contained in

this Ordinance.

4. One (1) Specific Use Permit (SUP) application and approval may allow up to five (5) gas wells to be drilled on a minimum two (2) acre pad site. Any additional gas wells above five (5) drilled from the same pad shall require an additional Specific Use Permit (SUP) application and approval.
 5. For the purposes of this ordinance, compression stations shall only be allowed with an additional Specific Use Permit (SUP).
- B. It shall be unlawful for any person acting either for himself or acting as an agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, re-drilling, fracturing or operation of any such well or to conduct any activity related to the production of gas & oil without first obtaining a Gas & Oil Well Permit Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit issued by the City in accordance with this Ordinance.
1. Such activities include, but are not limited to re-drilling, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing. A permit shall not be required for seismic surveys.
- C. Operator must apply for and obtain a Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit prior to drilling, re-drilling, deepening, re-entering, activating or converting each well including any previously abandoned well.
- D. The issued Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, repair, reworking, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well.
- E. Any person who intends to re-work a permitted well to fracture stimulate the well after initial completion or to conduct seismic surveys or other exploration activities shall give written notice by certified mail to the Development Services Department and the Gas & Oil Inspector no less than ten (10) days before the activities begin.
1. The notice must identify where the activities will be conducted and must describe the activities in detail, including whether explosive charges will be used, the duration of the activities and the time the activities will be conducted and provide the address and 24-hour phone number of the person conducting the activities
 2. The person conducting the activities will post a sign no larger than four (4) feet by four (4) feet on the property giving the public notice of the activities, including the name, address and 24-hour phone number of the person conducting the activities.
 3. The following requirements shall apply to all fracture stimulation operations performed on a well located within six hundred (600) feet of an occupied residence:
 - i) At least 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;
 - ii) “Flowback” operations to recover fluids used during fracture stimulation shall be performed during daylight hours only unless the Inspector approves such operations during non-daylight hours;

- iii) A watchman shall be required at all times during such operations; and,
 - iv) At no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.
- F. The Specific Use Permit (SUP) may designate up to five (5) gas wells on each approved drill pad and shall expire if no Drilling Permit is issued by the City according to the timeframe listed below with the corresponding zoning district. This timeframe begins from the approval date of the Specific Use Permit (SUP):
- 1. Heavy Industrial (HI) and Medium Industrial (MI) Districts—30 months.
 - 2. Light Industrial (LI), and Commercial (C)—18 months
 - 3. Agricultural (A)—15 months
 - 4. Single Family One (SF-1), Residential Two and a Half (R2.5), Residential Three (R3)—12 months
 - 5. Planned Development—time will vary depending approval of Planned Development Ordinance.
 - 6. In all cases, however, the Specific Use Permit (SUP) for all gas/oil wells shall expire five (5) years after the first drilling permit is issued by the City.
 - 7. A Specific Use Permit (SUP) for drilling can be extended by City Council for any of the timeframes listed above for a period not to exceed one-fourth (1/4) of the approved timeframe and must be enacted prior to the expiration of the Specific Use Permit (SUP).
- G. Notwithstanding any other provision of this Article, all operations for drilling or mining for the production of oil, gas or other hydrocarbons or gold or other precious metals shall be expressly prohibited on any public parks within the City Limits or City-owned property, unless approved by the City Council in the Specific Use Permit (SUP) request.
- 1. The City Council shall review the insurance and security requirements on an individual basis and may impose additional restrictions upon issuance of a Gas & Oil Well permit.
 - 2. This provision shall not operate to prohibit the drilling of any water well that the City Council shall deem reasonable or appropriate.
- H. No Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit shall be issued for any well to be drilled within any FEMA-designated floodplain without a flood study. If the study determines that the proposed well site is in the floodplain, it must be reviewed and approved by the City Engineer to ensure it meets the City's flood damage prevention ordinance.
- I. The Operator expressly stipulates and agrees to be bound by and comply with the conditions of approval by the Specific Use Permit (SUP) and the provisions of this Ordinance.

ARTICLE VI. GAS & OIL WELL SPECIFIC USE PERMIT (SUP) AND THE ASSOCIATED GAS & OIL WELL DRILLING PERMIT APPLICATION AND FILING FEES

- A. Every application for a Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit issued pursuant to this Ordinance shall be in writing signed by the Operator, or some person duly authorized to sign on his behalf, and filed with the Development Services Department.

- B. The application fee for the Specific Use Permit (SUP) shall be as determined by the most recent fee structure adopted by City Council. The associated Gas & Oil Well Drilling Permit fee shall be five thousand dollars (\$5,000.00).
- C. Both applications and fees along with the requirements stated on the checklists must be submitted to the Development Services Department by the formal submittal deadline for the next available Planning and Zoning Commission meeting. From time to time, changes to the checklist may be allowed without updating this ordinance.

ARTICLE VII. REQUIREMENTS FOR A GAS & OIL WELL SPECIFIC USE PERMIT (SUP) AND ASSOCIATED GAS & OIL WELL DRILLING PERMIT

- A. Before a Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit application will be accepted, the proposed well location shall be located at least six hundred (600) feet from an existing residence, religious institution, public building, hospital building, educational facility or public park and the proposed well site shall be at least two (2) acres in area.
 - 1. Any building permit issued for the above uses will also constitute as existing if a permit is on file with the City on the date the application for a permit is filed.
 - 2. For the purpose of a Gas & Oil Well Drilling Permit, the measurement of the six hundred (600) foot distance shall be from the well head site to the closest exterior point of the building or facility.
 - i) This distance can be reduced to three hundred (300) feet if all the property owners within this distance sign an official affidavit provided by the City stating their approval for drilling operations and production at this distance along with unanimous approval from City Council at the Specific Use Permit (SUP) approval stage.
- B. Application Requirements.
 - 1. The applications for the Gas & Oil Well Drilling Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit shall include all the requirements stated in Articles V & VI of this Ordinance, and
 - 2. A detailed site plan that includes all the information required in Article VI (C), and:
 - i) Specific details to the projected location of the major components of the drilling site,
 - ii) Impacted vegetation, creeks and other topographic features, adjacent building and other structures,
 - iii) The measured distance from the well site to these buildings and structures, and
 - iv) Temporary and permanent fencing and landscaping.
- C. Permitting Procedure.
 - 1. Any Specific Use Permit (SUP) request for Gas and Oil Well Drilling must be received by the formal submittal deadline for placement on the next available Planning & Zoning Commission meeting for a public hearing. A pre-submittal meeting must be held prior to any formal submittal.

2. At least fifteen (15) days prior to the date of the public hearing before the Planning & Zoning Commission and City Council meeting, the City shall notify each property owner, as shown by the current tax roll, within six hundred (600) feet of the proposed well head site and all registered neighborhood associations within one-half mile not owned by or under lease to the Operator and the hearing date and time.
 - i) Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, by the United States Postal Service.
3. At least fifteen (15) days prior to the date of the public hearing before the Planning & Zoning Commission and City Council meeting, the City shall submit a newspaper advertisement of the public hearing date, time, location, and purpose to the City's official newspaper.
4. At least twenty (20) days prior to the date of the public hearing before the Planning & Zoning Commission and City Council meeting, the Operator shall, at his expense, erect at least one (1) sign, no less than four feet by four feet (4x4), upon the premises upon a Gas & Oil Well Specific Use Permit (SUP) has been requested.
 - i) 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.
 - ii) The sign(s) shall substantially indicate that a Gas & Oil Well Permit to drill for gas or oil has been requested and state the date, time and place of the public hearing, and shall further set forth that additional information can be acquired by telephoning the applicant/Operator at the number indicated on the sign.
 - iii) Any sign(s) shall be removed subsequent to final action by the City Council.
 - iv) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this Section.

D. Fencing for Gas & Oil Well Drilling Permit Site

1. A chain link fence with three-and-one-half (3½) inch mesh interwoven with opaque slats, a minimum of eight (8) feet but not to exceed ten (10) feet in height, shall enclose all completed wells and tanks located within the Gas & Oil Well Drilling Permit area.
2. Other fencing requirements, temporary or permanent, will be stated by the conditions of approval as stated in the Gas & Oil Well Specific Use Permit (SUP).

E. Landscaping for Gas & Oil Well Drilling Permit Site

1. Landscaping shall be required along all street frontages and perimeter of the drill site with accent trees and suitable screening shrubs that complement the architectural character of the surrounding neighborhood.
2. Screening shrubs shall be installed completely around the well site and all fences and be sufficient to screen from view the structures sought to be screened.
 - i) Screening shrubs shall be a minimum of five (5) feet in height at planting, have the potential to grow to a mature height equal to or greater than the required fencing.
3. All plant materials shall be drought tolerant.
4. The vegetation or berms shall be kept in an attractive state and in good condition at all times by the applicant or Operator.
5. Landscaping plans shall be submitted at the same time as the Specific Use Permit (SUP) and be approved by the Planning & Zoning Commission and City Council.

F. Vehicle Routes for Gas & Oil Well Drilling Permit Site.

1. Vehicles associated with drilling and/or production in excess of three (3) tons shall be restricted to such streets designated as either truck routes or commercial delivery routes by the City Code wherever capable of being used.
2. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated.
3. Commercial delivery route means any street or highway so designated by the City Council for the use by any commercial motor vehicle, truck-tractor, trailer, semi-trailer, or any combination thereof.

G. Work Hours for Gas & Oil Well Drilling Permit Site

1. Site development, other than drilling, shall be conducted only between 7am and 7pm.
2. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to between the hours of 6am to 7 pm except in cases of fires, blowouts, explosions and any other emergencies where the delivery of equipment is necessary to protect the public welfare.

H. Noise Restrictions for Gas & Oil Well Drilling Permit Site

1. No drilling-producing, related drilling operations or formation fracturing level shall produce a sound level that exceeds 80 dB(a) when measured at a distance of three hundred (300) feet.
2. No person shall operate or permit to be operated in connection with the operation of a producing well any engine, compressor or motor-driven machinery of any type which exceeds 72 dB(a) when measured at a distance of three hundred (300) feet.
3. Sound level measurements shall be made with a sound level meter conforming as a minimum, to the requirements of the American National Standards Institute and installed at Operators expense in specified locations.

4. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions, four (4) feet above ground level, when measured at a distances mentioned above.
5. If sound levels exceed the dB(a) levels cited in this section, the Inspector shall require sound reducing mufflers.

I. Tank Specifications for High Impact Gas & Oil Well Permit.

1. All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the Fire Marshall.
2. The top of the tanks shall be no higher than eight (8) feet above the terrain surrounding the tanks.
3. All tanks shall be set back pursuant to the standards of the Commission and the National Fire Protection Association, but in all cases, shall be at least thirty-five (35) feet from any public right-of-way or property line.

ARTICLE VIII. ISSUANCE OF GAS & OIL WELL PERMITS

- A. The Development Services Department, within 10 days after the filing of a completed application and remittance of all fees, insurance and security, per the requirements of this Ordinance for a Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit, shall determine whether or not the application complies in all respects with the provisions of this Ordinance and determine if the proposed well to be drilled or the facility to be installed is in compliance with the distance requirements for the requested Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit on the date the completed application is received by the Development Services Department .
- B. If the Operator elects not to accept the conditions of approval for the Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit imposed by the City Council and wishes to withdraw his application, the Operator must notify the Development Services Department in writing of his decision and the City shall retain all applicable processing and filing fees.
- C. All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this Section.

ARTICLE IX. AMENDED GAS & OIL WELL PERMITS

- A. If the location of the well site is moved no more than 30 feet from its originally-approved location, staff may approve such a location change as long as a well has not been previously drilled and the new location does not encroach on any setbacks during the drilling and abandoned stages and it does not trigger a change in property owner notification and it does not trigger a change in property owner notification.
- B. An Operator may submit an application to the Development Services Department to amend an existing Gas & Oil Well Permit via a Specific Use Permit (SUP) amendment to commence drilling on a new drill site that is not shown on (or incorporated by reference as part of), relocate a drill site or operation site or to otherwise amend the existing Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit.

- C. Applications for amended Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit must be filled out and signed by the Operator, and shall include the following:
1. The application fee for the Specific Use Permit (SUP) amendment shall be as determined by the fee structure adopted by City Council. The associated Gas & Oil Well Drilling Amended Permit fee shall be two thousand five hundred dollars (\$2,500.00).
 2. A description of the proposed amendments;
 3. Any changes to the information submitted with the application for the existing Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit, if such information has not previously been provided to the City;
 4. Such additional information as is reasonably required by the Development Services Department to demonstrate compliance with the applicable Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit; and,
 5. Such additional information as is reasonably required by the Inspector to prevent imminent destruction of property or injury to persons.
 6. All Gas & Oil Well Specific Use Permits (SUP) shall be reviewed as stated in Articles V, VI (C), and VII of this Ordinance.

ARTICLE X. SUSPENSION OR REVOCATION OF GAS & OIL WELL PERMIT

- A. If an Operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a Gas & Oil Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit (including any requirement incorporated by reference as part of the Gas & Oil Well Permit), the Inspector 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.
1. The cure period shall be ten (10) 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 Ordinance.
- B. If the Operator fails to correct the noncompliance within ten (10) days from the date of the notice, the Inspector may suspend or revoke the Gas & Oil Well Permit and City Council may suspend or revoke the Gas & Oil Well Specific Use Permit (SUP) pursuant to the provisions of this Ordinance.
- C. No person shall carry on any operations performed under the terms of the Gas & Oil Well Drilling Permit issued under this Ordinance during any period of any Gas & Oil Well Specific Use Permit (SUP) suspension or revocation or pending a review of the decision or order of the City in suspending or revoking the Gas & Oil Well Specific Use Permit (SUP).
1. 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 Gas & Oil Well Specific Use Permit (SUP) 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 Ordinance, the Development Services Department, upon written notice to the Operator, may notify the Commission and request that the Commission take any appropriate action.
- E. If an application for a Gas & Oil Well Specific Use Permit (SUP) is denied by the City Council, nothing herein contained shall prevent a new permit application from being submitted to the Development Services Department for the same well.

ARTICLE XI. PERIODIC REPORTS

- A. The Operator shall notify the Development Services Department 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;
 - 2. The name, address, and phone number of the person designated to receive notices from the City (which person must a resident of Texas that can be served in person or by registered or certified mail); and
 - 3. The Operator’s Emergency Action Response Plan (including “drive-to-maps” from public rights-of-way to each drill site).
- B. The Operator shall notify the Development Services Department 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 Commission within ten (10) days after the Operator has notice of the existence of such reports or complaints.
- D. Every January 1st, until the Operator notifies the Inspector that the well has been abandoned and the site restored, the Operator shall submit a written report to the Inspector if there are any changes to the information that was included in the application for the applicable Gas & Oil Well Drilling Permit that have not been previously reported to the City.

ARTICLE XII. BOND, LETTERS OF CREDIT, INDEMNITY, INSURANCE

- A. General Requirements

The Operator shall be required to:

 - 1. Comply with the terms and conditions of this Ordinance and the conditions of approval set forth in the Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit.
 - 2. Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed, or occurring in the operations, and after abandonment or completion grade, level and restore such property to the same surface conditions as nearly as possible as existed before operations.
 - 3. Indemnify and hold harmless the City, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorney’s fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by Operator under a Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit.

- i) Where such injuries, death or damages are caused by Operator's sole negligence or the joint negligence of Operator and any other person or entity; and
 - ii) Regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of Operator.
4. Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit.
5. Promptly restore to its former condition any public property or infrastructure damaged by the gas or oil operation.

B. Bond, Irrevocable Letter of Credit

1. Prior to the issuance of a Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit the Operator shall provide the Development Services Department with a security instrument in the form of a bond or an irrevocable letter of credit in a form acceptable to the City Attorney as follows:
 - i) Bond.
 - (1) A Bond shall be executed by a reliable bonding or insurance institution authorized to do business in Texas
 - (2) The Bond shall become effective on or before the date the Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit are issued and shall remain in force and effect for at least a period of six (6) months after the expiration of the Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit or until the well is plugged and abandoned and the site is restored.
 - (3) The Operator shall be listed as principal and the instrument shall run to the City, as obligee, and shall be conditioned that the Operator will comply with the terms and regulations of this Ordinance and the City.
 - (4) An original Bond shall be submitted to the Development Services Department.
 - ii) Letter of Credit.
 - (1) A letter of credit shall be issued by a reliable bank authorized to do business in Texas in a form acceptable to the City Attorney and shall become effective on or before the date the Gas & Oil Well Permit is issued.
 - (2) The letter of credit shall remain in force and effect for at least a period of six (6) months after the expiration of the Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit or until the well is plugged and abandoned and the site is restored.
 - (3) The City shall be authorized to draw upon such letter of credit to recover any fines or penalties assessed under this Ordinance.

- (4) Evidence of the execution of a letter of credit shall be submitted to the Development Services Department by submitting an original signed letter of credit from the banking institution.
2. The principal amount of any security instrument shall be eighty thousand dollars (\$80,000) for any single well and shall be maintained at that amount during the reworking operations.
 - i) If the City Council deems any Operator's bond or letter of credit to be insufficient, it may require the Operator to increase the amount of the bond or letter of credit up to a maximum of two hundred fifty thousand dollars (\$250,000) per well.
 - ii) An operator who permits numerous wells within the city may elect to provide a blanket bond or letter of credit in the principal amount of two hundred fifty thousand dollars (\$250,000). The blanket bond shall be deemed to be sufficient for all operations, including drilling, completion, re-working, and production.
3. Whenever the Inspector finds that a default has occurred in the performance of any requirement or condition imposed by this Ordinance or the conditions of approval set forth by the Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit a written notice shall be given to the Operator.
 - i) Such notice shall specify the work to be done, the estimated cost and the period of time deemed by the Inspector to be reasonably necessary for the completion of such work.
 - ii) After receipt of such notice, the Operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the City one hundred twenty-five percent (125%) of the estimated cost of doing the work as set forth in the notice.
 - iii) In no event, however, shall the cure period be less than ten (10) 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 Ordinance.
 - iv) The City shall be authorized to draw against any irrevocable letter of credit or bond to recover such amount due from the Operator.
 - v) Upon receipt of such monies, the City shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand.
 - vi) In the event that the well has not been properly abandoned under the regulations of the Commission, such additional money may be demanded from the Operator as is necessary to properly plug and abandon the well and restore the drill site in conformity with the regulations of this Ordinance.
4. In the event the Operator does not cause the work to be performed and fails or refuses to pay over to the City the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the City against the applicable irrevocable letter of credit or bond the City may proceed to obtain compliance

and abate the default by way of civil action against the Operator, or by criminal action against the Operator, or by both such methods.

5. When the well or wells covered by said irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this Ordinance, and in conformity with all regulations of the Commission and notice to that effect has been received by the City, or upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

C. Insurance

1. In addition to the bond or letter of credit required pursuant to this Ordinance, the Operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in Texas.
2. In the event such insurance policy or policies are cancelled, the Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit shall be suspended on such date of cancellation and the Operator's right to operate under such Gas & Oil Well Permit shall immediately cease until the Operator files additional insurance as provided herein.
3. General Requirements applicable to all policies.
 - i) The City, its officials, employees, agents and officers shall be endorsed as an "Additional Insured" to all policies except Employers Liability coverage under the Operator's Workers Compensation policy.
 - ii) All policies shall be written on an occurrence basis except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess or Umbrella Liability, which may be on a claims-made basis.
 - iii) All policies shall be written by an insurer with an A-: VIII or better rating by the most current version of the A. M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the City.
 - iv) Deductibles shall be listed on the Certificate of Insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.
 - v) Certificates of Insurance shall be delivered to the City of Midlothian, Planning Department, 104 W. Avenue E, Midlothian, Texas, Texas 76065, evidencing all the required coverages, including endorsements, prior to the issuance of a Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit.
 - vi) All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
 - vii) Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
 - viii) Each policy shall be endorsed to provide the City a minimum thirty-day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.

- ix) During the term of the Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit, the Operator shall report, in a timely manner, to the Inspector any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
 - x) Upon request, certified copies of all insurance policies shall be furnished to the City.
4. Standard Commercial General Liability Policy
- i) 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 and personal injury.
 - ii) This coverage shall be a minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.
5. Excess or Umbrella Liability
- i) Five million dollars (\$ 5,000,000) Excess, if the Operator has a stand-alone Environmental Pollution Liability (EPL) policy.
 - ii) Ten million dollars (\$10,000,000) Excess, if the Operator does not have a stand-alone EPL policy.
 - iii) Coverage must include an endorsement for sudden or accidental pollution.
 - iv) 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.
6. Environmental Pollution Liability Coverage
- i) Operator shall purchase and maintain in force for the duration of the Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit, 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.
 - ii) 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.
 - iii) The Operator shall maintain continuous coverage and shall purchase Extended Coverage Period insurance when necessary.

- iv) The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.

7. Control of Well

- i) The policy should cover the cost of controlling a well that is out of control, re-drilling 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.
- ii) \$ 5,000,000 per occurrence/no aggregate, if available, otherwise an aggregate of ten (10) million dollars.
- iii) \$ 500,000 Sub-limit endorsement may be added for damage to property for which the Operator has care, custody and control.

8. Certificates of Insurance

- i) The company must be admitted or approved to do business in the State of Texas.
- ii) 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.
- iii) Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
- iv) Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City.
- v) All policies shall be endorsed to read *“This policy will not be cancelled or non-renewed without 30 days advanced written notice to the owner and the City of Midlothian, Texas except with this policy is being cancelled for nonpayment of premium, in which case ten (10) days advanced written notice is required.”*
- vi) Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

D. Indemnification and Express Negligence Provisions

- 1. Each Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit issued shall include the following language:
 - i) 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 Midlothian, Texas, and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known 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 Gas & Oil Well Permit.
 - ii) The Operator shall fully defend, protect, indemnify, and hold harmless the City of Midlothian, 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 Midlothian, 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 Gas & Oil Well Permit.

- iii) The Operator agrees to indemnify and hold harmless the City of Midlothian, 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 of Midlothian, Texas occurring on the drill site or operation site in the course and scope of inspecting and permitting the gas or oil wells including, but not limited to, claims and damages arising in whole or in part from the negligence of the City of Midlothian occurring on the drill site or operation site in the course and scope of inspecting and permitting the gas or oil wells. It is understood and agreed that the indemnity provided for this section is an indemnity extended by the operator to indemnify and protect the City of Midlothian and/or its departments, agents, officers, servants, or employees from the consequence of the negligence of the City of Midlothian 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.

E. Notice

- 1. The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail.
- 2. Every Operator shall within ten (10) days notify the Development Services Department in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

F. Acceptance and Indemnity Agreement.

- 1. The Operator who has a net worth of not less than twenty-five million dollars (\$25,000,000), as shown in such Owner's or Operator's most recent audited financial statements, may substitute an acceptance and indemnity agreement in lieu of the bond or irrevocable letter of credit and insurance requirements set forth in this Ordinance, provided that such acceptance and indemnity agreement shall be in a form acceptable to, and approved by, the City Attorney.
- 2. The Development Services Department may request an annual review of the Operator's most recent audited financial statements to assure compliance with this section.

XIII. ON SITE AND TECHNICAL REGULATIONS.

A. On Site Requirements

- 1. Abandoned Wells.

- i) All wells shall be abandoned in accordance with the rules of the Commission; however, all well casings shall be cut and removed to a depth of at least three (3) feet below the surface unless the surface owner submits a written agreement otherwise.
 - ii) No structures shall be built over an abandoned well.
- 2. Blowout Prevention.
 - i) In all cases, blowout prevention equipment shall be used on all wells being drilled, worked-over or in which tubing is being changed.
 - ii) Protection shall be provided to prevent blowout during gas & oil operations as required by and in conformance with the requirements of the Commission and the recommendations of the American Petroleum Institute.
 - iii) The Operator must equip all drilling wells with adequate blowout preventors, flow lines and valves commensurate with the working pressures involved as required by the Commission.
 - iv) Prior to the commencement of drilling, a gas leak detector system shall be installed to the satisfaction of the Fire Chief and maintained for the life of well operation.
- 3. Compliance

Operator shall comply at all times with all applicable federal, state and City requirements.
- 4. Discharge

No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including wastewater or brine from any gas or oil operation or the contents of any container used in connection with any gas or oil operation in, into, or upon any public right-of-way, alleys, streets, lots, storm drain, ditch or sewer, sanitary drain or any body of water or any private property in the City.
- 5. Drill Stem Testing
 - i) All open hole formation or drill stem testing shall be done during daylight hours.
 - ii) Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate gas separator to storage tanks and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.
- 6. Dust, Vibration, Odors
 - i) All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of gas, oil and other hydrocarbon substances in urban areas.
 - ii) All equipment used shall be so constructed and operated so that, vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production 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.

- iii) Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

7. Electric Lines

All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.

8. Electric Motors

- i) Only electric prime movers or motors shall be permitted for the purpose of pumping wells.
- ii) No electric power shall be generated on location. All electrical installations and equipment shall conform to the City Ordinances and the appropriate national codes.

9. Emergency Response and Evacuation Plan

- i) Prior to the commencement of any gas, oil or other hydrocarbons production activities, Operator shall submit to the Fire Department an emergency response and evacuation plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of gas & oil wells.
- ii) Said plan shall use existing guidelines established by the Commission, Texas Natural Resource Conservation Commission, Department of Transportation and/or the Environmental Protection Agency.

10. Equipment Painted.

All production equipment on the site shall be painted and maintained at all times, including pumping units, storage tanks, buildings and structures.

11. Fire Prevention / Sources of Ignition.

- i) Firefighting apparatus and supplies as approved by the Fire Department and required by any applicable federal, state, or local law shall be provided by the Operator, at the Operator's cost, and shall be maintained on the drilling site at all times during drilling and completion operations.
- ii) The Operator shall be responsible for the maintenance and upkeep of such equipment. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All well heads shall contain an emergency shut off valve to the well distribution line.

12. Fresh Water Wells.

- i) It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located within two hundred (200) feet to any fresh water well.
- ii) The measurement shall be in a direct line from the closest well bore to the fresh water well bore.

- iii) The operator of a gas or oil well shall provide the Inspector with a “pre-drilling” and “post-drilling” water analysis from any fresh water well within five hundred (500) feet of the gas or oil well.
 - iv) Within 180 days of its completion date, each gas or oil well shall be equipped with a cathodic protection system to protect the production casing from external corrosion.
 - v) The Inspector may approve an alternative method of protecting the production casing from external corrosion.
13. Gas Emission or Burning Restricted.
i) No person shall allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Commission or the Texas Council on Environmental Quality.
14. Grass, Weeds, Trash.
All drill and operation sites shall be kept clear of high grass, weeds, and combustible trash within a radius of two hundred (200) feet around any gas or oil tank or tanks or producing wells.
15. Hazardous Plan.
Hazardous Materials Management Plan shall be on file with the Fire Marshal and the Inspector.
16. Lights.
i) No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the operation site.
ii) 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 five hundred (500) feet.

17. Muffling Exhaust.
- i) 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 noncombustible materials sufficient to suppress noise and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.
 - ii) All formation fracturing operations shall be conducted during daylight hours unless the Operator has notified the Inspector that fracing will occur before or after daylight hours to meet safety requirements.
18. Closed-Loop/Open-Loop Systems
A closed-loop system shall be required on all oil/gas wells. If an open-loop system is desired by the Operator, the Specific Use Permit (SUP) for that specific well site must approve such request. At the drilling permit phase, the Operator shall pay a separate Environmental Mitigation Permit Fee to the City in an amount of twenty thousand dollars (\$20,000). This fee shall be deposited into the Kiosk/Streetscape Fund (Account 110). The City Council may earmark a portion of these monies towards other projects such as downtown/historical projects, as deemed necessary.
19. Private Roads and Drill Sites.
- i) Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site itself shall be at least twelve (12) feet wide, have an overhead clearance of fourteen (14) feet and shall be surfaced with crushed rock, gravel or ore and maintained to prevent dust and mud.
 - ii) In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the Development Services Department and the City Engineer after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind.
20. Salt Water Wells.
No disposal wells, including but not limited to salt water disposal wells, shall be located within the City of Midlothian, Texas.
21. Signs.
- i) A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected.
 - ii) 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.

22. Storage of Equipment.
- i) On-site storage is prohibited on the operation site.
 - ii) No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well.
 - iii) Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site.
 - iv) No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for drilling or production operations on the site.
 - v) The Fire Department shall be the entity that determines whether any equipment on the site shall constitute a fire hazard.
 - vi) No refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises.
23. Storage Tanks.
- i) All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the Fire Chief.
 - ii) All storage tanks shall be equipped with a secondary containment system including lining with an impervious material.
 - iii) The secondary containment system shall be a minimum of three feet (3') in height and one and one-half (1½) times the contents of the largest tank in accordance with the Fire Code, and buried at least one foot (1') below the surface.
 - iv) Drip pots shall be provided at the pump out connection to contain the liquids from the storage tank.
 - v) All tanks shall be set back pursuant to the standards of the Commission and the National Fire Protection Association, but in all cases, shall be at least thirty-five (35) feet from any property line.
 - vi) Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank.
24. Tank Battery Facilities.
- i) Tank battery facilities shall be equipped with a remote foam line and a lightning arrester system.
 - ii) Tanks must be at least two hundred fifty (250) feet from any residence, religious institution, public building, hospital building, educational facility or public park.

25. Surface Casing.
Surface casing must be new and shall be run and set in full compliance with the applicable rules and regulations of the Commission.
26. Valves.
Each well must have a shutoff valve to terminate the well's production. The Fire Department shall have access to the well site to enable it to close the shut-off the valve in an emergency.
27. Waste Disposal.
- i) Unless otherwise directed by the Commission, all tanks used for storage shall conform to the following:
 - ii) Operator must use portable closed steel storage tanks for storing liquid hydrocarbons.
 - iii) Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, flame arrester and pressure relief valve.
 - iv) All tanks must be enclosed by a fence applicable to the issued permit classification.
 - v) Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into an earthen pit.
 - vi) All disposals must be in accordance with the rules of the Commission and any other appropriate local, state or federal agency.
 - vii) Unless otherwise directed by the Commission, waste materials shall be removed from the site and transported to an off-site disposal facility by the company contracted by the City.
 - viii) Water stored in on-site tanks shall be removed as necessary.
 - ix) All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the State, this Ordinance and any other applicable ordinance of the City.
28. Watchman.
The Operator must keep a watchman or security personnel on site during the drilling or re-working of a well when other workmen are not on the premises.

B. Well setbacks.

1. It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:
- i) Within thirty-five (35) feet from any outer boundary line; or
 - ii) Within fifty (50) feet from any storage tank, or source of ignition; or
 - iii) Within ninety (90) feet of any public street, road, highway or future street, right-of-way or property line; or

- iv) Within four hundred (400) feet from any building used, or designed and intended to be used, for human occupancy after the drilling has been completed or
 - v) Within two hundred (200) feet of any building accessory to, but not necessary to the operation of the well; or
 - vi) Within two hundred (200) feet to any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.
2. The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any object listed in 1 through 6 above.
 3. For protection of the public health, safety and welfare, the City Council may impose additional requirements for a reduction of such distance.
- C. Installation of Pipelines on, under or across Public Property.
 The Operator shall apply to the City for a franchise agreement on, over, under, along or across the City streets, sidewalks, alleys and other City property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may be continued under any Gas & Oil Well Drilling Permit issued pursuant to this Ordinance. Operator shall:
1. Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such rights-of way.
 2. Furnish to the Planning Director/City Engineer a plat showing the location of such pipelines.
 - i) Construct such lines out of pipe in accordance with the City codes and regulations properly cased and vented if under a street;
 - ii) Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed when operations for the drilling of the well were first commenced.
- D. No Gas & Oil Well Specific Use Permit (SUP) and the associated Gas & Oil Well Drilling Permit shall be issued for any well to be drilled within any of the streets or alleys of the City and/or projected streets or alleys shown by the current Comprehensive Plan of the City, and no street or alley shall be blocked or encumbered or closed due to any exploration, drilling or production operations unless approved by the City Council with certain conditions.

ARTICLE XIV. GATE SPECIFICATIONS

- A. All chain link fences and masonry walls shall be equipped with at least one (1) gate. The gate shall meet the following specifications:
1. 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;
 2. 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

3. Operator must provide the City 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.

ARTICLE XV. CLEANUP AND MAINTENANCE

A. Cleanup After Well Servicing.

1. After the well has been completed or plugged and abandoned, the Operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within forty-five (45) days.

B. Clean-up After Spills, Leaks and Malfunctions.

1. After any spill, leak or malfunction, the Operator shall remove or cause to be removed to the satisfaction of the City Fire Chief and the Inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately.
2. If the owner fails to begin site clean-up within forty-eight (48) hours, the City shall have the right to contact the Commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.

C. Free from Debris.

1. The property on which a well site is located shall at all times be kept free of debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other waste material within a radius of two hundred (200) feet around any separators, tanks and producing wells.

D. Painting.

1. All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, and buildings or structures.
2. When requiring painting of such facilities, the Inspector shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance.
3. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of green, blue and brown, or other neutral colors approved by the Inspector.

E. Blowouts.

1. In the event of the loss of control of any well, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this Ordinance and shall notify the Inspector as soon as practicable.
2. The Inspector shall certify in writing, briefly describing the same, to the Development Services Department and the City Manager. If the Inspector, in his opinion, believes that danger to persons and property exists because of such loss of well control and that the Operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the Inspector may then employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the Inspector deems necessary to regain control of such well.

3. The City shall then have a valid lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the City pursuant to such action of the Inspector in gaining control of said well.

ARTICLE XVI. PLUGGED AND ABANDONED WELLS

- A. Once a well has been plugged, any new residence, religious institution, public building, hospital building, educational, or public park may locate at least two hundred (200) feet from the outer perimeter of the enclosed wellhead.
- B. Surface Requirements for Plugged and Abandoned Well.
 1. Whenever abandonment occurs pursuant to the requirements of the Commission, the Operator so abandoning shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this Ordinance.
- C. Abandonment shall be approved by the Inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the Inspector:
 1. The derrick and all appurtenant equipment thereto shall be removed from drill site;
 2. All tanks, towers, and other surface installations shall be removed from the drill site;
 3. All concrete foundations, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the Commission;
 4. All holes and depressions shall be filled with clean, compactable soil;
 5. All waste, refuse or waste material shall be removed from the drill site; and
 6. During abandonment, Operator shall comply with all applicable sections in this Ordinance.
- D. Abandoned Well Requirement.
 1. The Operator shall furnish the following at the discretion of the Inspector:
 - i) A copy of the approval of the Commission confirming compliance with all abandonment proceedings under the state law; and,
 - ii) A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

E. Abandonment Requirements Prior to New Construction.

1. 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.

ARTICLE XVII. TECHNICAL ADVISOR

- A. The City may from time to time employ a technical advisor or advisors who are experienced and educated in the gas & oil industry or the law as it pertains to gas & oil matters.
- B. The function of such advisor(s) shall be to advise, counsel or represent the City on such matters relating to gas & oil operations within the City as the City may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the City.
- C. In the event such Technical Advisor(s) is employed for the purpose of advising, counseling or representing the City relative to an Operator's unique and particular set of circumstances, case or request relating to this Ordinance, then the cost for such services of such technical advisor(s) shall be assessed against and paid for by such Operator in addition to any fees or charges assessed pursuant to this Ordinance.
- D. Prior to the employment of a Technical Advisor, the City shall inform the Operator of the intended scope of work and the estimated costs and expenses. The employment of a Technical Advisor shall be approved by the City Council.

ARTICLE XVIII. PENALTY

- A. It shall be unlawful and an offense for any person to do the following:
 1. Engage in any activity not permitted by the terms of a Gas & Oil Well Permit issued under this Ordinance.
 2. Fail to comply with any condition set forth in a Gas & oil Well Permit issued under this Ordinance; or,
 3. Violate any provision or requirement set forth under this Ordinance.
- B. Any violation of this Ordinance shall be punished by a fine of not more than two thousand dollars (\$2,000) per day per each offense, subject to applicable State Law. Each day that a violation exists shall constitute a separate offense.

SECTION 2.

That this ordinance shall be cumulative of all other ordinances of the City of Midlothian, Texas and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 3. SEVERANCE CLAUSE

If any Section or part of any section, paragraph or clause of this Ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force or effect of any other section or sections, part of section, paragraph or clause of this Ordinance.

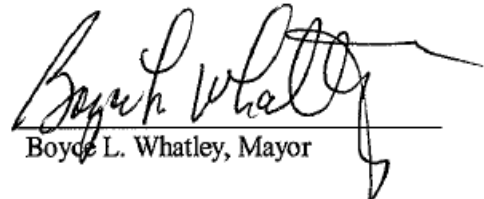
SECTION 4. PENALTY

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 5. EFFECTIVE DATE

Because of the nature of the interest and safeguard sought to be protected by this ordinance, and in the interest of health, safety and welfare of the citizens of the City of Midlothian, Texas, this ordinance shall take effect immediately after passage and approval.

PASSED, ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MIDLOTHIAN, TEXAS, ON THIS THE 24TH DAY OF JULY, 2007.



Boyce L. Whatley, Mayor



ATTEST:



Lou Jameson, City Secretary

APPROVED AS TO FORM:



Don Stout, City Attorney