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AN ORDINANCE AMENDING THE ABILENE CITY CODE OF 1965 BY ADDING TO CHAPTER 8 THEREOF A NEW ARTICLE, TO BE KNOWN AS ARTICLE IV, PROVIDING FOR THE REGULATION OF THE BUSINESS OF DRILLING FOR AND PRODUCTION OF OIL AND GAS AND ALL RELATED ACTIVITIES WITHIN THE CITY OF ABILENE; PRESCRIBING PENALTIES FOR VIOLATION HEREOF, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE:

PART 1: The Abilene City Code of 1965 is hereby amended by adding to Chapter 8 thereof a new Article, to be known as Article IV, Oil and Gas Drilling and Production, which shall read as follows:

ARTICLE IV - OIL AND GAS DRILLING AND PRODUCTION

Sec. 8-22. Definitions.

For the purposes of this Article, the following words and terms, wherever and whenever used or appearing herein, shall have the scope and meaning hereinafter defined and set out in connection with each:

- (a) The word "well" shall include and mean any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of producing and recovering any oil, gas, liquid hydrocarbon, or any of them.
- (b) The word "permittee" shall mean the person to whom is issued a permit for the drilling and operation of a well under this Article, and his administrators, executors, heirs, successors and assigns.
- (c) All technical or oil-and-gas-industry words or phrases used herein, and not specifically defined herein, shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry.
- (d) "Drilling Unit", as used herein, shall mean an area consisting of one or more contiguous tracts of land shaped in such a manner that its length is not in excess of three times its width.
- (e) "Drilling Equipment", as used herein, shall include not only the drilling rig and associated equipment, but also all service trucks and equipment, storage pits, tanks and all other items associated with the drilling of a well.

(f) "Production Equipment", as used herein, shall include not only the well head, pumping units, flow lines, heaters, treaters, separators and storage facilities, but also any and all other equipment and items associated with the production of a well.

Sec. 8-23. Permit--Required; issuing authority.

It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant of any other person, to commence to drill, to drill, or to operate any well within the city limits of the city or to work upon or assist in any way in the prosecution or operation of any such well, without a permit for the drilling and operation of such well having first been issued by the authority of the City Council in accordance with the terms of this Article.

Sec. 8-24. Drilling units.

The City of Abilene does hereby establish the following minimum area for Drilling Units:

- (a) From the surface of the soil to a depth not exceeding 2000 feet below the surface of the soil: Five (5) acres.
- (b) From the depth of 2000 feet below the surface of the soil to the depth of 4000 feet below the surface of the soil: Twenty (20) acres.
- (c) Below the depth of 4000 feet below the surface of the soil: Forty (40) acres.

No permit shall be granted to any person to drill or operate a well unless such person has, under lease or established by appropriate agreement, a Drilling Unit with at least ninety percent (90%) of the area above set out.

No permit shall be granted to any person to drill or operate more than one well per Drilling Unit.

Sec. 8-25. Application; filing fee.

Any person desiring to drill and operate a well shall file his application therefor with the Planning Director of the City of Abilene.

Such application shall be in a form prescribed by said Planning Director, and shall include the following information:

- (a) The legal description of the Drilling Unit.
- (b) The name or names of all lessors, mineral owners and surface owners within the Drilling Unit.
- (c) The anticipated total depth.
- (d) The approximate date of the commencement of drilling.
- (e) The anticipated drilling time to total depth.
- (f) The name of the drilling contractor.

The following shall be filed at the time of the filing of the application:

- (a) A map or plat of the Drilling Unit, prepared by a licensed surveyor, showing the exact location of the proposed well and any and all buildings located within 150 feet of said well location.
- (b) A certificate of insurance showing the applicant is the owner of public liability insurance covering applicant's activities. Such insurance shall be in the minimum limits of \$100,000.00 per personal injury, and \$300,000.00 per single accident, with property damage limits of a minimum of \$50,000.00 per accident.
- (c) A certificate of insurance showing the drilling contractor is the owner of public liability insurance with the minimum limits set out in (b) above.
- (d) A copy of the Texas Railroad Commission Form 1 (application to drill) and a copy of the Texas Railroad Commission Permit to drill.
- (e) Any written consents hereinafter required.

Said application shall be accompanied by a filing fee of \$50.00, which such fee shall also be in lieu of any building permit fees.

Sec. 8-26. Procedure after application.

Upon the filing of an application in accordance herewith, it

shall be referred to the Planning Commission, which shall call a public hearing on said application as provided for herein.

The Planning Commission shall send written notice of such hearing to all owners of real property lying within three hundred (300) feet of the proposed well location, such notice to be given not less than ten (10) days before the date set for said hearing, to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved City Tax Roll. Such notice shall contain the time and place of the hearing, the legal description of the proposed Drilling Unit and location thereof by reference to streets.

Such notice may be served by depositing the same, properly addressed and postage paid, in the City Post Office. Failure to receive such notice shall not invalidate the hearings or the results thereof.

If, at the conclusion of such hearing, the Planning Commission decides to recommend the approval of such application by the affirmative votes of not less than a majority of its total membership, such application shall then be submitted to the City Council with the recommendations of the Planning Commission.

In the event the Planning Commission fails to recommend approval of an application, the applicant may appeal to the City Council by filing written notice of appeal with the City Secretary within ten (10) days after such action of the Planning Commission.

After recommendation by the Planning Commission, or appeal by the applicant, as the case may be, the City Council shall consider such application and make a final determination thereon. Approval shall require the affirmative vote of at least four (4) members of the City Council.

**Sec. 8-27. Standards for approval.**

Application to drill and operate a well shall be granted only if:

- (a) All prerequisites contained in this Article have been met.
- (b) It appears that the drilling and operation of such well can and will be conducted in accordance with this Article, all other ordinances of the City of Abilene, all laws of the State of Texas and the United States, and all rules and regulations of the Railroad Commission of Texas and the Board

of Water Engineers of the State of Texas.

- (c) Such proposed drilling and operation will not create a fire hazard; cause unsanitary conditions, cause excessive noise or noxious odors; cause a danger of explosion; pollute any stream or water supply; restrict the orderly development of the City of Abilene; create a nuisance, or, without limitation by enumeration of the foregoing, otherwise adversely affect the health, safety and welfare of the public in general.

In order to ensure compliance with the above standards, or any other provision of this Article, the Council may impose reasonable restrictions and conditions, other than those contained herein, on the drilling and operation of the proposed well. Failure to comply with any such restrictions shall be unlawful and grounds for revocation of any permit issued.

Sec. 8-28. Issuance of permit.

Each permit issued under this Article shall:

- (a) By reference have incorporated therein all the provisions of this Article, with the same force and effect as if this Article were copied verbatim in such permit.
- (b) Specify the well location and Drilling Unit with particularity to lot number, block number, name of addition or subdivision, or other available correct legal description.
- (c) Contain and specify that the term of such permit shall be for a period of one year from the date of the permit, and as long thereafter as the permittee is engaged in drilling operations with no cessations of such operations for more than ninety days, or oil or gas is produced in commercial quantities from the well drilled pursuant to such permit; provided, if, at any time after discovery of oil or gas, the production thereof in commercial quantities shall cease, the term shall not terminate if the permittee commences additional reworking operations within ninety days thereafter, and if they result in the production of oil or gas, so long thereafter as oil or gas is produced in commercial quantities from such well.

- (d) Contain and specify such conditions and restrictions as are by this Article authorized.
- (e) Specify the total depth to which the well may be drilled.

Such permit, in duplicate originals, shall be signed by the Mayor, and, prior to delivery to the permittee, shall be signed by the permittee (with one original to be retained by the City and one by the permittee); and, when so signed, shall constitute the permittee's drilling and operating license, and contractual obligation of the permittee to comply with the terms of such permit and this Article.

Sec. 8-29. Supplemental permit for deeper drilling.

- (a) It shall be unlawful and an offense for any person to drill any well to a deeper depth than that allowed by any permit granted hereunder without the permittee as to such well obtaining a supplemental permit after filing a supplemental application with the City Planning Director specifying:
  - (1) The then condition of the well and the casing therein;
  - (2) The depth to which it is proposed such well be deepened;
  - (3) The description of the Drilling Unit if an increase in area is necessary;
- (b) In the event the City Planning Director is satisfied that such well may be deepened with the same degree of safety as existed under the original permit and all other provisions hereof, including Drilling Unit area requirements, can be complied with, a supplemental permit may be issued without additional filing fee to the permittee authorizing the deepening and operation of the well to such specified depth as applied for. In any deeper drilling or any deeper production operations the permittee shall comply with all other provisions contained in this Article applicable to the drilling, completion and operation of a well or wells.

Sec. 8-30. Termination.

When a permit shall have been issued, the same shall terminate and become inoperative without any action on the part of the City, unless, within ninety days from the date of issuance, actual drilling of the well shall have commenced.

The cessation for a like period of the drilling operations or the cessation of the production of oil or gas from the well after production shall have commenced shall operate to terminate and cancel the permit, and the well shall be considered as abandoned for all purposes of this Article, and it shall be unlawful thereafter to continue the operation or drilling of such well without the issuance of another permit.

Sec. 8-31. Bond required.

In the event a permit be issued by the City Council under the terms of this Article for the drilling and operation of a well, no actual drilling operations shall be commenced until the permittee shall file with the City Secretary a bond in the principal sum of Ten Thousand Dollars (\$10,000.00); the bond shall be executed by applicant as principal and by one good and sufficient corporate surety or two good and sufficient individual sureties, running to the City for the benefit of the City and all persons concerned, conditioned that the permittee will comply with the terms and conditions of this Article in the drilling and operation of the well. Such bond shall become effective on or before the date it is filed with the City Secretary, and remain in force and effect for at least a period of six months subsequent to the expiration of the term of the permit issued; and, in addition, the bond will be conditioned that the permittee will promptly pay all fines, penalties and other assessments imposed upon permittee by reason of his breach of any of the terms, provisions and conditions of this Article, and that the permittee will promptly restore the streets and sidewalks and other public property of the City which may be disturbed or damaged in the operations of their former condition; and that the permittee will promptly clear all premises of all litter, trash, waste, and other substances used, allowed, or occurring in the drilling or producing operations, and will, after abandonment, grade, level and restore such property to the same surface condition, as nearly as possible, as existed when operations for the drilling of the well or wells were first commenced; and that the permittee will indemnify and hold the City harmless from any and all liability growing out of or attributable to the granting of such permit. If, at any time, the City Council shall deem any permittee's bond to be insufficient for any reason, it may require the permittee to file a new bond.

Sec. 8-32. Drilling operations.

- (a) No permit shall be granted to drill or operate a well within 150 feet of any building or buildings, unless, prior to the filing of the application therefor, applicant shall have obtained written consent from the owners of such building or buildings. A copy of such consent or consents and/or any lease or leases which contain such consent shall be filed with said application.
- (b) No drilling operations shall be conducted hereunder unless and until adequate fences or similar barriers have been erected to keep the public away from the drilling equipment.
- (c) All pits shall be filled as soon as is reasonably practicable after drilling operations are completed and the surface of the soil shall be restored to its original condition as nearly as practicable.
- (d) No drill stem tests shall be conducted except during daylight hours.
- (e) 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, or in projected highway and street or alley, and no street or alley shall be blocked or encumbered or closed in any drilling operation.
- (f) No delivery of pipe, casing, or tubular products shall be made to the well site during the hours from 7:00 P. M. to 7:00 A. M.
- (g) In addition to the above requirements, all drilling operations shall be conducted in accordance with the rules and regulations of the Railroad Commission of Texas and the Board of Water Engineers of the State of Texas.

Sec. 8-33. Production practices.

- (a) No well shall be produced unless the operator, during all periods of operation, maintains on file with the City Secretary a current certificate of insurance showing public liability and property damage insurance in full force and effect with the minimum limits set out herein, see *Sec. 8-25*

*9<sup>th</sup> Para.  
Sub Para. 13*



- (b) All production equipment that is otherwise accessible to the general public shall be fenced, and the gate to such fence shall be locked. Such fence shall be woven wire fencing not less than six feet in height, securely set upon steel posts with barbed wire affixed to the top.
- (c) On all tank batteries within 200 feet of any building or buildings, there shall be erected a fire wall of sufficient volume to hold double the capacity of the production tanks, and such fire wall shall, during the life of the production, be maintained in such manner as to hold any escaped fluid within said fire wall.
- (d) Production equipment and location will, at all times, be kept free and clear of high grass, weeds, trash and unsightly materials.
- (e) Only electric power shall be used to power pumping units.
- (f) Salt water (or other produced water) shall be stored in a closed steel tank, and shall be disposed of in accordance with the rules and regulations of the Railroad Commission of Texas and the Board of Water Engineers of the State of Texas.
- (g) Produced gas, when not sold to a pipeline, shall be disposed of by the operator in accordance with the rules and regulations of the Railroad Commission of Texas.
- (h) All operations shall be conducted in such a manner as to eliminate, as far as practicable, according to accepted engineering practices, dust, noise, vibration or noxious odors.
- (i) Residue and waste oil and basic sediment shall not be burned, but shall be transported outside the city limits of the City of Abilene for disposal, such disposal to be made in accordance with the rules and regulations of the Railroad Commission of Texas and the Board of Water Engineers of the State of Texas.
- (j) No mud, water, waste oil, slush or other waste matter shall be permitted to escape into the al-

leys, streets or other premises.

(k) No delivery of pipe, casing or tubular products shall be made to the well site during the hours from 7:00 P. M. to 7:00 A. M.

(l) No operator or permittee shall permit gas to escape into the air, or flare or burn gas from a torch or any similar means within 500 feet of any building; provided, gas may be burned for a limited time when necessary to complete an oil and/or gas well upon the original completion or upon the recompletion of work over 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.

(m) Whenever any well is abandoned or plugged, it shall be the obligation of the operator and permittee of the well to set a fifty (50) foot cement plug in the top of the surface casing; to leave the surface or conductor strings of casing in the ground and to take such precautions as may be prescribed by the Railroad Commission of Texas and the Board of Water Engineers of Texas.

(n) Upon the abandonment or plugging of a well, the operator or permittee shall immediately clean the site, level all fire walls and restore the same to its original condition, as nearly as possible.

#### Sec. 8-34. Exceptions.

All provisions of Sec. 8-33 shall apply to wells completed prior to October 19, 1967. All other provisions of this Article shall not be applicable to those wells completed prior to October 19, 1967. Provided, however, no such well previously abandoned as a dry hole shall be reentered and no such well completed as a producer shall be drilled to a deeper depth without obtaining a permit from the City Council, in which case all provisions hereof governing such application and all operations shall be complied with.

#### Sec. 8-35. Injunction to prevent violation.

Drilling and production operations which are in violation of this ordinance are hereby declared a public nuisance, subject to injunctive relief by the City of Abilene in any court of competent jurisdiction.

Sec. 8-36. Penalties, fine; forfeiture; revocation of permit.

It shall be unlawful and an offense for any person to violate or neglect to comply with any provision hereof, irrespective of whether or not the verbiage of each section hereof contains the specific language that such violation or neglect is unlawful and is an offense. Any person who shall violate any of the provisions of this Article, or any of the provisions of a permit issued pursuant hereto, or any condition of the bond filed by the permittee pursuant to this Article, or who shall neglect to comply with the terms hereof, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined in any sum not exceeding Two Hundred Dollars (\$200.00); and the violation of each separate provision of this Article, and of such permit, and of such bond, shall be considered a separate offense, and each day's violation of each separate provision thereof shall be considered a separate offense. In addition to the foregoing penalties, it is further provided that the City Council may revoke any permit issued under this Article in the event of violation of any provisions of this Article, the permit issued or the bond required hereby.

PART 2: That the City Council hereby finds that an emergency exists requiring suspension of the rule provided in Section 18 of the City Charter requiring ordinances to be read on two separate days, in that the immediate passage of said ordinance is necessary for the preservation of the public peace, safety and welfare, and because the City of Abilene presently has no ordinance regulating the drilling and production of oil and gas, and said rule is hereby suspended, and this ordinance shall take effect and be in force from and after its passage.

PASSED this 19th day of October, A. D., 1967.

  
MAYOR

ATTEST:

  
CITY SECRETARY

APPROVED:  
DON R. BUTLER, City Attorney



