

ORDINANCE NO. 880-B

AN ORDINANCE OF THE CITY OF SOUTHLAKE, TEXAS (“CITY”), AMENDING ORDINANCE 880-A “OIL AND GAS WELL DRILLING AND PRODUCTION” OF CHAPTER 9.5 – ARTICLE IV OF THE SOUTHLAKE CITY CODE, PROVIDING FOR REVISED REGULATIONS GOVERNING THE DRILLING AND PRODUCTION OF OIL AND GAS WELLS AND THE INSTALLATION OF PIPELINES WITHIN THE CITY; PROVIDING FOR REVISED REGULATIONS REGARDING DISTANCE, NOISE AND TECHNICAL CRITERIA; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR PUBLICATION IN THE OFFICIAL CITY NEWSPAPER; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Southlake, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, on May 20, 2008, the City Council of the City of Southlake adopted Ordinance Number 880-A, governing the drilling and production of gas wells and the installation of gas pipelines within the city limits of Southlake; and

WHEREAS, since the adoption of Ordinance Number 880-A, the City Council has considered two zoning applications for gas well development and production in the City; and

WHEREAS, during the pendency of the zoning cases the City Council engaged Cudd Well Control in order to solicit well control engineering and gas dispersion modeling services; and

WHEREAS, during the pendency of the zoning cases the City Council considered significant input and testimony from the oil and gas well operator/applicant regarding well development feasibility and public safety matters; and

WHEREAS, the City Council, after due and careful consideration, determined that the regulations established by Ordinance Number 880-A were inadequate to address certain environmental and land use compatibility issues created by oil and gas exploration and mineral extraction, development and transportation activities; and

WHEREAS, in light of such careful consideration, the City Council concluded that it was reasonable and necessary to update municipal ordinances and regulations to provide for a fair and equitable system of regulations relating to oil and gas exploration and mineral extraction, development and transportation so as to protect the property interest of mineral estate owners while also protecting the rights, opportunities and property interests of surface estate owners; and

WHEREAS, at the direction of the City Council, City staff completed such investigations as it deemed necessary to determine the state of regulations applicable to oil and gas exploration and other forms of mineral extraction and transportation under the current ordinances and regulations of the City of Southlake and has proposed revised regulations to the City Council that more adequately serve to protect the public health, safety and welfare and mitigate the effects of such activity on property values and neighborhood character; and

WHEREAS, the City engaged the services of William M. Cobb & Associates, Inc., “Worldwide Petroleum Consultants”, to review and evaluate the Oil and Gas Well Drilling and Production Ordinance from a petroleum engineering perspective; and

WHEREAS, in considering the draft amendment to the Oil and Gas Well Drilling and Production Ordinance, containing all City Council-proposed revisions thereto as of September 26, 2011, Cobb & Associates concluded, in relevant part, that “[i]t is ... our professional opinion that the proposed ordinance is functional and, in general, reasonable when considering issues related to conducting oil and gas operations ...”; and

WHEREAS, the City additionally engaged the services of Modern Geosciences, a Texas Registered Geoscience Firm in order to evaluate the Oil and Gas Well Drilling and Production Ordinance from an environmental and geosciences perspective; and

WHEREAS, Modern Geosciences has critically analyzed a draft amendment to the Oil and Gas Well Drilling and Production Ordinance containing all City Council-proposed revisions thereto as of September 26, 2011, and has provided a comprehensive environmental review memorandum documenting suggested revisions and commentary to the Ordinance; and

WHEREAS, during its investigation, including its consideration of prior gas well development zoning cases, the City Council conducted twenty-two (22) public meetings in order to study, deliberate and identify possible amendments to the Oil and Gas Well Drilling and Production Ordinance; and

WHEREAS, during its investigation, including its consideration of prior gas well development zoning cases, the City Council considered over thirty (30) hours of public testimony and comment concerning possible amendments to the Oil and Gas Well Drilling and Production Ordinance; and

WHEREAS, the City Council has diligently and in good faith reviewed, deliberated and considered public, staff, and professional consultant input, including input provided during the pendency of prior gas well development zoning cases, in evaluating all reasonable and sound revisions to the Oil and Gas Well Drilling and Production Ordinance; and

WHEREAS, the City Council finds that the amendments proposed herein justly and fairly balance the interests of mineral rights owners by providing for the orderly exploration, development, and production of hydrocarbons while also diligently protecting the public health, safety and welfare of the citizens of Southlake; and

WHEREAS, in light of the foregoing, the City Council now deems it advisable and necessary to amend the current regulations for the drilling and production of oil and gas wells within the City of Southlake in order to protect the public health, safety and general welfare of the citizens of the City of Southlake, Texas.

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

Section 1: The above findings are hereby found to be true and correct and are incorporated herein in their entirety.

Section 2: That Article IV of Chapter 9.5, “Oil and Gas Well Drilling and Production” of the Southlake City Code, as amended, is hereby amended to read as shown in the attached and incorporated Exhibit “A,” a copy of which is on file with the office of the City Secretary. The amendments adopted in this ordinance shall apply only to operations conducted under permits issued after the effective date of this ordinance.

Section 3: This ordinance shall be cumulative of all provisions of ordinances of the City of Southlake, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 4: It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5: 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 and no cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 6: All rights and remedies of the City of Southlake are expressly saved as to any and all violations of the provisions of Ordinance 880-A, as amended, or any other ordinances affecting oil, gas and hydrocarbon drilling, production, development, and transportation which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 7: The City Secretary of the City of Southlake is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

Section 8: The City Secretary of the City of Southlake is hereby directed to publish the proposed ordinance or its caption and penalty together with a notice setting out the time and place for a public hearing thereon at least ten (10) days before the second reading of this ordinance, and if this ordinance provides for the imposition of any penalty, fine or forfeiture for any violation of any of its provisions, then the City Secretary shall additionally publish this ordinance or its caption and penalty in the official City newspaper one time within ten (10) days after final passage of this ordinance, as required by Section 3.13 of the Charter of the City of Southlake.

Section 9: This ordinance shall be in full force and effect from and after its date of passage and publication as required by law and it is so ordained.

PASSED AND APPROVED the 1st reading on the 4th day of October, 2011.

MAYOR

ATTEST:

CITY SECRETARY

PASSED AND APPROVED the 2nd reading on the 18th day of October, 2011.

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY

Exhibit "A"

From Chapter 9.5 of the City of Southlake's City Code

ARTICLE IV.

OIL AND GAS WELL DRILLING AND PRODUCTION*

* **Editors Note:** Ord. No. 880-A, § 2, adopted May 20, 2008, set out provisions amending Art. IV, §§ 9.5-251--9.5-355. These provisions have been renumbered as Art. IV, §§ 9.5-221--9.5-299, at the editor's discretion, to maintain inclusion of existing Art. V, §§ 9.5-306--9.5-355.

DIVISION 1.

GENERAL PROVISIONS

Sec. 9.5-221. Purpose and intent.

The exploration, development, and production and transportation of oil and gas in the city are activities that necessitate reasonable regulation to ensure that all property owners, both mineral and surface, have the right to peaceably enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this Article to establish safeguards and regulations for operations related to the exploring, drilling, producing, transporting and storing of oil and gas and other substances produced in association with oil and gas production within the city to protect the health, safety and general welfare of the public, minimize the potential impact to property owners, both surface and mineral, protect the quality of the environment, and provide for the orderly development of available mineral resources.

(Ord. No. 880, § 2A, 10-5-04; Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-222. Definitions.

All technical industry words or phrases related to the drilling and production of wells not specifically defined shall have the meanings customarily attributable thereto by prudent operators in the oil and gas industry. In addition any references to state or federal agencies herein, shall include any successor agency. For the purposes of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandonment: "Abandonment" as defined by the railroad commission and includes the plugging of the well and restoration of the drill site as required by this Article.

Administrator: The city manager or the city manager's designated representative assigned to administer this Article.

All-weather surface: A surface that consists of a minimum of six inches of compacted class II base rock for grades up to and including five percent, oil and screened for grades up to and including 15 percent, and asphalt or concrete pavement with a non-skid finish for grades exceeding 15 percent to a maximum of 20 percent on a fire apparatus access road.

Ambient noise level: The all encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, prior to the addition of sources related to oil and gas drilling, production, or compression activities, constituting the normal or existing level of environmental noise at a given location.

Applicant: A person requesting a permit or certificate for the drilling, operation and production of a well, or the installation or operation of a pipeline, as the case may be, is issued under this Article, including but not limited to the applicant's heirs, legal representatives, successors or assigns.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Blind/shear ram: an integral part of a blowout preventer, which serves as the closing element to an open hole. Its ends do not fit around the drill pipe but seal against each other and shut off the space below completely.

Blowout preventer: A mechanical, hydraulic, pneumatic, or other device or combination of such devices secured to the top of the 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 to prevent blow outs.

Building: Any structure used or intended for supporting or sheltering any use or occupancy, which includes, but not limited to all related site work and placement of construction materials on the site.

Christmas tree: the control valves, pressure gauges, and chokes assembled at the top of a well to control the flow of oil and gas after the well has been drilled and completed. It is used when reservoir pressure is sufficient to cause reservoir fluids to flow to the surface.

City: The City of Southlake, Texas.

City council: The City Council of the City of Southlake.

Closed loop mud system: An enclosed suite of solids control equipment used for mud circulation and intended to minimize drilling fluid dilution to provide for handling of the drilling wastes so that reserve pits are not used.

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

Compression facility: Those facilities that compress natural gas after production-related activities occur.

Construction: Causing or carrying out any building, bulk head, filling, clearing, excavation or substantial improvement to land or to the size of any structure.

Daytime: The period from 7:00 a.m. to 7:00 p.m.

Dedication: A transfer of an interest in real property to the city for purposes of complying with regulatory requirements, including but not limited to a permanent easement or fee simple title for a specific purpose.

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

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

Drilling equipment: The derrick, draw works, power plant, rotary table, pumps, together with all parts of an apparatus to such structure, every piece of apparatus, machinery or equipment used in connection with drilling and operations.

Drill site: The entire area or acreage used during the drilling, re-drilling or re-working of a well or wells including storage, trailers, parking and equipment areas. A drill site includes an operation site.

Environmentally sensitive area: Either (1) an area under the jurisdiction of the U.S. Army Corps of Engineers where scientific, ecological, cultural or aesthetic features have been identified by the Corps of Engineers, (2) an area that would be subject to U.S. Fish and Wildlife Service, Texas Parks and Wildlife, or Texas Historic Commission permitting requirements, and/or (3) an area designated in the environmental resource protection map as identified in the Southlake Comprehensive Master Plan, as amended.

Established pipeline corridor: Either (1) an area within a public right of way in which city-owned and/or franchised utilities are already located or within which franchised utilities are to be located, or (2) a utility easement created to contain either (a) a utility other than a pipeline; or (b) a pipeline which pre-existed the pipeline under consideration, provided the location of such pipeline has been approved as part of a specific use permit or a variance has been granted under this Article; or (3) an easement for a pipeline which was in existence prior to the effective date of this Article.

Excavation: Any movement or alteration of the surface of the ground by machinery in conjunction with or anticipation of drilling activities or construction of a pipeline, including but not limited to scraping or grading a site.

Exploration: Geologic or geophysical activities, including but not limited to surveying and seismic exploration, related to the search for oil and gas or other sub-surface hydrocarbons.

Filling: Any addition of rock, dirt, soil, or other earthen material in conjunction with or anticipation of drilling activities or construction of a pipeline, including but not limited to, disposal of excavated materials.

Floodplain: Any land area susceptible to a general and temporary condition of partial or complete inundation of normally dry land areas in a base flood from overflow of inland waters or from the unusual and rapid accumulation or runoff of surface waters from any source, as designated by the city, the Federal Emergency Management Agency, the U.S. Army Corps of

Engineers, or other regulatory authority.

Frac, fracture or fracturing: The process of fracture stimulation of a rock formation, including but not limited to the process of pumping sand laden fluids down a well, or any other means used, to stimulate a rock formation.

Franchise: An agreement between a utility provider and the city authorizing such utility to utilize public rights of way for the location of such utility's service lines for the purpose of providing utility services to the public located within the city.

Franchised utility: An entity authorized to provide utility services to the city pursuant to a franchise agreement with the city; provided, however, that such definition shall not extend to any pipelines or other utility lines which collect or transport gas, hazardous liquids or chemicals from wells located within the city into a larger pipeline system, regardless of whether such pipelines are owned by an entity which holds a franchise within the city for other purposes.

Fresh Water Intermittent Stream: An inland stream that has a period of zero flow for at least one week during most years. Where flow records are available, a stream with a 7Q2 flow of less than 0.1 cubic feet per second is considered intermittent consistent with 30 TAC §307.3(31). Occasionally, these may be indicated on United States Geological Survey 7.5-minute Topographic maps as a "broken blue line."

Fresh Water Perennial Stream: A body of water flowing in a natural or man-made channel year-round, except during periods of drought. Occasionally, these may be indicated on United States Geological Survey 7.5-minute Topographic maps as a "continuous blue line."

Fresh Water Pond or Lake: An inland body of standing water typically artificially created.

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/or any material defined or referred to as "gas" in the rules, regulations or forms of the railroad commission.

Green Completion: Using technology to recover gas that may otherwise be vented or flared during the completion phase of a natural gas well; using equipment designed to handle high pressure, high rate flowback fluids so as to safely handle and to sell the natural gas produced during flowback period; using flowback equipment to separate sand, water and gas during initial flowback; having a sales line in place prior to completion of the fracturing process; using the recommended technologies and practices outlined in the U.S. Environmental Protection Agency Natural Gas STAR Program and also including, but not limited to, vapor recovery systems, no-bleed pneumatic valves, flaring and venting bans, and electric compressors.

Habitable structures: Structures suitable for human habitation or occupation, including but not limited to single or multifamily residences, hotels, condominium buildings, public buildings, buildings for commercial or industrial purposes and enclosed spaces in which individuals congregate for education, worship, amusement, or similar purposes, or in which occupants are engaged at labor, which is equipped with means of egress, light and ventilation

facilities. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartments, then the entire building, not the individual apartments, is considered a single habitable structure. A habitable structure shall not include accessory buildings, garages and sheds. Any structure for which a certificate of occupancy is required shall be deemed to be a habitable structure.

Hazardous liquid: Any liquid identified as hazardous by any federal or state law or regulation, including but not limited to those liquids defined by the railroad commission at 16 Texas Administrative Code, Section 7.80, Definitions, as amended, specifically including but not limited to, petroleum or any petroleum product, and any substance or material which is in a liquid state when transported by pipeline facilities and which has been determined by the U.S. Secretary of Transportation to pose an unreasonable risk to life or property when transported by pipeline facilities. The term shall be enlarged to include liquefied natural gas and anhydrous ammonia should such materials at any time be introduced into any pipeline subject to this Article. It shall also include carbon dioxide, defined at 49 CFR 192.2 as a fluid consisting of more than 90 percent carbon dioxide molecules compressed to a supercritical state.

Hazardous materials management plan: The hazardous materials management plan and hazardous materials inventory statements required by the fire code.

Idled pipeline: A pipeline that has been inactive for at least two years, regardless of whether there may be specific plans to reactivate the pipeline.

Inactive pipeline: A pipeline that has temporarily been taken out of service for a period of at least six months for hazardous materials or hazardous liquids, or for a period of at least one year for natural gas, with the expectation that the pipeline may be reactivated within two years, even though there may be no specific plans to reactivate the pipeline.

Inspector: The oil and gas inspector designated by the administrator.

Leak Detection and Compliance Plan (LDCP) – A plan outlining the operator’s equipment selection, process design to minimize the potential for spills or releases to soil, water, or air, and defines the long term monitoring and reporting program to ensure continued compliance with regulatory requirements both on and off the drill site.

Lightning arrester: A device incorporated into an electrical system to prevent damage by heavy surges of high-voltage electricity, such as a stroke of lightning or voltage surges resulting from mishaps in operations.

Line marker: A marker identifying the location of a buried pipeline, as further defined in 49 CFR 192.707.

New pipelines: Pipelines constructed after the effective date of this Article, provided that the following shall not be included; (a) the replacement or repair of any existing pipeline; (b) the realignment of a portion of an existing pipeline to a position that is not greater than 50 feet from its original position; or (c) surface appurtenances added to existing pipelines.

New well: A new well bore or new hole established at the ground surface and shall not include the re-working of an existing well that has not been abandoned unless the re-working involves drilling to a deeper total depth.

Nighttime: The period commencing at 7:00 p.m. and ending at 7:00 a.m.

Operation site: The area used for development and production of oil and gas and all related operational activities after drilling activities are complete.

Operations: Activities leading to and supporting the production of oil, gas and/or other hydrocarbons.

Operator: The person listed on the railroad commission form W-1 or form P-4 for a well as the person that is, has applied for, 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 defined herein, for any well is not the lessee of any premises affected by the provisions of this Article, then such lessee shall also be deemed to be an operator. In the event there is no oil and gas lease relating to any premises affected by this Article, the owner of the fee mineral estate in the premises shall also be deemed an operator.

Pad site: The area around a well that serves as a foundation for the drilling rig.

Permittee: Any person authorized to act under a permit or a certificate issued by the city.

Person: An individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, other non-corporeal legal entity, the U.S. Government, a state, a municipality, commission, political subdivision or any international or interstate body or any other governmental entity.

Pipeline: All parts of those physical facilities through which gas, hazardous liquids or chemicals move in transportation, including but not limited to pipe, valves and other appurtenance attached to pipe, whether or not laid in public or private easement or public or private right of way within the city, including but not limited to gathering lines, production lines and transmission lines.

Pipeline or well emergency: A pipeline or well incident in which any of the following has occurred or is occurring:

- (1) Fire or explosion not intentionally initiated by the operator as part of its normal and customary operations (in accordance with accepted safety practices).
- (2) Release of a gas, hazardous liquid or chemical that could adversely impact the environment or health of individuals, livestock domestic animals and/or wildlife within the city.
- (3) Death of any person or individual directly attributable to the operations of the pipeline or well.
- (4) Bodily harm to any person that results in any of the following: loss of consciousness, the need to assist a person from the scene of the incident, or the necessity of medical treatment in excess of first aid.

- (5) Damage to private or public property not owned by the well operator or the pipeline operator, as the case may be, in excess of \$5,000.00 in combined values, as determined by the administrator.
- (6) The rerouting of traffic or the evacuation of buildings.

Pipeline operator: Any person owning, operating or responsible for operating a pipeline.

Pipeline permit: A permit applied for and issued or denied pursuant to this Article authorizing the movement of gas, oil, water or other products through a pipeline.

Pipeline review committee: A committee, consisting of the city engineer, fire marshal, inspector, city director of planning and development services and, if necessary, a third-party technical advisor, appointed to seek resolution of any substantive, non-resolvable technical issues related to the issuance of a pipeline permit.

Practicable: That which reasonably may be accomplished, considering the effectiveness, scientific feasibility and commercial availability of current technology and/or techniques, and cost, as determined by the pipeline review committee.

Private residential areas: Any area which is within the territorial limits of the city subject to a temporary or permanent residential or multifamily zoning classification or any area which is designated as residential or multifamily in the Southlake Comprehensive Master Plan, as amended, or both.

Railroad commission: The Railroad Commission of Texas.

Regulated pipeline: Those pipelines within the city that under federal and state rules and regulations are not exempt from city regulations and ordinances regarding construction standards, safety standards or reporting requirements.

Residence: A building used or intended to be used as a place of general abode or dwelling place.

Road repair agreement: A written agreement obligating the operator to repair damage, excluding ordinary wear and tear, if any, to public streets, including but not limited to bridges, caused by the operator or its employees, agents, contractors, subcontractors or representatives in the performance of drilling or production of any wells authorized by the city.

Senior Living Facility: a multi-family housing unit or structure designed, constructed, operated and intended to provide residential accommodations to individuals over the age of 60.

Southlake Comprehensive Master Plan: The City of Southlake Comprehensive Master Plan, as amended, consisting of multiple elements, as adopted by the city council.

Specific use permit: A permit recommended by the planning and zoning commission and authorized by the city council for the use of land or structures in accordance with the provisions of Section 45 of the zoning ordinance.

Street: The entire width between the boundary lines of the street right of way that is open to the use of the public for purposes of vehicular travel.

Street right of way: Land dedicated by plat, easement or by fee simple, or qualifies as a prescriptive easement, or prescriptive right of way, for the use and construction of a street or roadway, including any sidewalks and/or adjacent areas included in such dedication.

Structure: Without limitation, any building, or combination of related components constructed in an ordered scheme that constitutes a work or improvement constructed on or affixed to land, including but not limited to habitable structures, partially enclosed structures, and enclosed tanks.

Supervisory Control and Data Acquisition (SCADA): A system that collects data from various sensors on drill site equipment or in close proximity to the drill site and sends this data to the operator to allow management of process controls, fluid inventory and equipment operations. Monitoring of operational pressures, fluid levels and controls should be used to identify potential releases, fugitive loses, or other indications that equipment at a drill site is not operating properly. Implementation of SCADA provides the operator the ability to monitor an entire system in near real time. SCADA should be a central component to any LDCP.

Tank battery: Point of collection (tanks) and disbursement (tank, meter, lease automated custody transfer unit) of oil or gas from producing well(s).

Technical advisor: A person(s) familiar with and educated in the oil and gas industry or the law as it relates to oil and gas matters who may be retained from time to time by the city.

Unregulated pipeline: Those pipelines within the city that under federal and state rules and regulations are exempt from city regulations and ordinances regarding construction standards, safety standards or reporting requirements.

Well: A hole or bore to any horizon, formation, or strata for the purpose of producing gas, oil, or other hydrocarbons.

Well permit: A permit applied for and issued or denied pursuant to this Article authorizing the drilling, production, and operation of one or more wells.

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

Zoning ordinance: The Zoning Ordinance of the City of Southlake, Texas, as it may be amended.
(Ord. No. 880, § 2B, 10-5-04; Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-223. Variance procedure.

(a) The following procedures apply to a variance request made subsequent to the issuance of a Specific Use Permit for oil and gas well drilling and production

(1) An operator or pipeline operator requesting a permit or other approval required by this Article, may apply for a variance from the requirements of this Article by submitting to the director of planning and development services a written request for variance. The

request must include the following, where applicable; provided, however, that the provision of the information below does not automatically result in the approval of the variance request:

- (a) Description of the requested variance and an explanation of why it should be granted; and
- (b) Description of alternatives considered and why each is not the preferred alternative; and
- (c) Description of the economic consequences if the variance is not granted; and
- (d) Description of how the level of health, safety and welfare of the public will be maintained if the variance is granted; and
- (e) A site plan of the site visually depicting the requested variance if the request for the variance involves the location or orientation of persons or property; and
- (f) In the case of an application for a variance to any mandatory setback established by this Article, a notarized consent form signed by 100% of all owners of the affected surface interests; or, alternatively, a written explanation documenting the applicant's good faith efforts to obtain the same.

(2) The director of planning and development services shall review the application and shall place each variance request on the city council agenda for consideration. In considering the variance the city council may take into account the following:

- (a) Whether the operations proposed are safe and reasonable under the circumstances and conditions prevailing in the area, considering the particular location and the character of the improvements located there; and
- (b) How the operations proposed compare to available alternatives; and
- (c) Whether the operations proposed would conflict with the orderly growth and development of the city; and
- (d) The economic consequence if the variance is not granted; and
- (e) Whether the operations proposed adequately protect the health, safety and welfare of the public; and
- (f) Whether the operations proposed provide acceptable access for fire personnel and firefighting equipment.

(3) In order to be approved, a proposed variance must receive the affirmative vote of a majority of the members of the city council then present; provided, however, that with respect to a variance from the provisions of division 2, §§ 9.5-230--9.5-252, if a proposed

variance relates to a drill site for which a three-fourths vote of all members of the city council was required pursuant to the provisions of Section 45 of the zoning ordinance, in order to be approved, the proposed variance must then receive the affirmative vote of three-fourths of all members of the city council, whether present or not. The details of each action granting or denying the requested variance shall be recorded and entered in the files of the city secretary and the director of planning and development services shall forward a letter to the operator stating whether the city council has approved or denied the variance request and listing any conditions placed upon an approval.

(4) The variance shall be placed on the City Council agenda for consideration within 45 days after the administrator issues a written determination that the variance request is administratively complete.

(b) The following applies to a variance request filed concurrently with an application for a Specific Use Permit for oil and gas well drilling and production.

(1) A variance application that accompanies an application for a specific use permit shall be considered in conjunction with the specific use permit application by the City Council following a recommendation by the Planning and Zoning Commission. Each variance request will be listed as a separate item on both the Planning and Zoning Commission and City Council agendas. The Planning and Zoning Commission and City Council may take separate action on each variance request or may consider all variances collectively.

(Ord. No. 880-A, § 2, 5-20-08)

(2) Each variance request application submitted in conjunction with a specific use permit shall include all information required under Section 9.5-223(1)(a-f) and the City Council and Planning and Zoning Commission may consider the factors set forth in Section 9.5-223(2)(a-f) when evaluating a variance request.

Sec. 9.5-224. Appeal procedure.

(a) An operator, pipeline operator or other person adversely affected by a decision of the director of planning and development services or the administrator under this Article may appeal such decision by filing written notice of such appeal to both the director of planning and development services and/or the administrator within ten business days of notice of such adverse decision. The notice of appeal must state the appellant's desire to appeal, the ruling from which the appellant desires to appeal and the relief or ruling sought. Any such appeal shall be to the city council. The city council, by the affirmative vote of a majority of the members then present, may affirm, reverse or modify the decision of the director or administrator. The decision of the city council concerning an appeal under this Article shall be final. The decision being appealed shall be suspended pending such appeal, unless the administrator determines that such suspension endangers the public health and safety, in which case the filing of a notice of appeal shall not act to suspend the decision of the administrator.

(b) Any appeal shall be governed by the following rules and procedures:

(1) Such appeal shall be set as an item on the regular city council agenda.

(2) The appellant shall bear the burden of persuasion that the ruling being appealed is in error and shall bear the burden of proof on such matter.

(3) No formal testimony or swearing of witnesses shall be required, and the city council may consider facts or evidence as the city council determines is appropriate. The director or administrator shall present the facts and evidence relied upon by the director or administrator and the reasons for the ruling; the appellant shall then have an opportunity to present the facts and evidence relied upon by the appellant; the city council shall then consider any facts or evidence from the public or other interested persons. The city council may ask questions of the director, administrator, appellant and any other interested persons as the city council determines is appropriate. The city council may limit the time for any presentation in its sole discretion.

(4) Upon the conclusion of the hearing, the city council shall then render its decision. Any appeal shall be determined by majority vote of the members of the city council then present.

(5) Written documents or evidence which any party wishes to submit must be filed with the director and administrator and submitted to the city council no less than three business days prior to the appeal hearing.

(c) No appeal for the same or related issue on the same piece of property shall be allowed from a previous ruling on any appeal absent a material change of circumstances. If the appellant asserts such a change of circumstances and seeks rehearing of an appeal, such appeal need not be considered unless the applicant presents in writing evidence establishing such change of circumstances. Any such subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-225. Takings Determination.

(a) Any aggrieved person who believes that an action taken pursuant to this Article by the City Council or any officer or employee of the City would legally constitute a taking of property without just compensation under the Texas or United States Constitution, must file an application with the City Council to request a takings determination.

(b) The applicant seeking a takings determination from the City Council shall file its application with the office of the City Secretary. The City Secretary shall then forward the takings determination application to the City Council for consideration. An application fee in the amount set forth in the City's fee schedule shall accompany each filing.

(c) The application shall state the reasons the applicant believes would support a finding that the City's application of the provisions of this Article to the applicant's property would legally constitute a taking under the Texas or United States Constitution and shall include evidence substantiating the purported diminution in value of the applicant's property.

(d) At the takings determination hearing conducted by the City Council, the applicant must present detailed economic information and other evidence necessary to establish that the City's application of the provisions of this Article to the applicant's property would legally constitute a

taking of the property without just compensation. The applicant has the burden of proof in establishing that the City's application of the provisions of this Article to the applicant's property legally constitutes a taking of property without just compensation under the Texas or United States Constitution.

(e) The City Council may administer oaths, compel the attendance of witnesses and require the disclosure of financial information from the applicant that the City Council determines is necessary to make a determination regarding whether the City's application of the provisions of this Article to the applicant's property legally constitutes a taking of property without just compensation under the Texas or United States Constitution.

(f) If the Council finds in favor of the applicant it may: (1) grant the relief requested, (2) direct the City Manager to rescind action taken by City staff that formed the basis of the takings determination application, or (3) direct the City Manager to reconsider action taken by City staff that formed the basis of the takings determination application. If the Council denies the application, or after a favorable determination the City Council fails to take action as specified above, the applicant may appeal the decision or inaction of the City Council to the county or district court of the county in which the affected real property is located within 30 days of the date that the Council issues its final decision.

(g) In order to find in favor of the applicant, pursuant to subsection (f) of this section, the affirmative vote of a majority of the members of the city council then present is required; provided, however, if the action complained of relates to a drill site for which a three-fourths vote of all members of the city council was required pursuant to the provisions of Section 45 of the zoning ordinance, the affirmative vote of three-fourths of all members of the city council, whether present or not, is required in order to find in favor of the applicant.

(h) An application filed pursuant to this section 9.5-225 may only seek a takings determination regarding the application of this Article by the City Council or any officer or employee of the City, occurring on or after October 1, 2011.

Secs. 9.5-226--9.5-229. Reserved.

DIVISION 2.

OIL AND GAS WELL DRILLING AND PRODUCTION

Sec. 9.5-230. Specific use permit required.

The drilling and production of gas and/or oil within the city shall only be permitted by specific use permit in accordance with Section 45 of the zoning ordinance. A separate specific use permit shall be required for each drill site, and shall apply to all wells permitted by such specific use permit on that drill site. All applications for a specific use permit shall be accompanied by an application fee in the amount set in the city's fee schedule. A site plan is required with the specific use permit application and must include all information required by Sections 40 and 45 of the zoning ordinance.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-231. Road repair agreement.

A statement of intent to enter into a road repair agreement shall be submitted in conjunction with the application for specific use permit or seismic survey permit. The terms of the road repair agreement must be approved by the city council as a condition of the specific use permit and signed by the operator prior to the issuance of any specific use permit. The administrator shall have the authority to execute the road repair agreement on behalf of the city. (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-232. Well permit required.

- (a) No person shall engage in the drilling, production or transportation of oil or gas within the city without first obtaining a well permit.
- (b) An application for a well permit and, if applicable, a pipeline permit must be filed with the city concurrently with the application for a specific use permit; provided, however, that the city shall not be required to consider the application for the well permit or the pipeline permit unless and until a specific use permit is approved by the city council and all applicable regulations of this ordinance and all other applicable city, state or federal regulations are met.
- (c) When a well permit has been issued, the permit shall constitute authority for the drilling and production of oil and gas in accordance with the limitations set forth in this Article. The laying of pipelines shall require separate permitting in accordance with division 3 of this Article.
- (d) An original well permit shall not constitute authority for the re-entering and drilling of an abandoned well. Re-entry and drilling of an abandoned well shall require a new well permit.
- (e) No permits to drill shall be issued for wells within any public park.
- (f) In addition to obtaining a well permit and before establishing a drill site and access road, the operator must obtain all other necessary permits, including a tree protection and earth disturbance permit from the building inspections department. The operator shall also be required to demonstrate compliance with the city's tree preservation ordinance, Ordinance No. 585-C, (Code §§ 9.5-371--9.5-385) as amended. (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-233. Seismic survey permit required.

- (a) A separate seismic survey permit shall be required for all seismic surveys. The operator conducting the seismic survey shall complete and submit a seismic survey application to the city containing, at a minimum, the following information:
 - (1) Operator name, phone number, facsimile transmission number, address, and, if available, email address; and
 - (2) If the operator is a corporation or other non-corporeal entity, the state of incorporation or organization; or if the operator is a partnership, the names and addresses of the general partners; and
 - (3) Location of seismic survey; and

- (4) Date and time the seismic survey will be conducted; and
 - (5) Detailed explanation of the seismic survey method to be used on site; and
 - (6) Date and time the seismic survey will be completed; and
 - (7) Identification of all staging areas; and
 - (8) Evidence or documentation that the activity will adhere to the requirements of the city's tree preservation ordinance, Ordinance No. 585-C, as it may be amended.
- (b) Under no circumstances may explosive charges, including but not limited to the use of dynamite, be used to conduct a seismic survey. In addition, the seismic survey activity shall be conducted in accordance with all applicable city ordinances.
- (c) A fee in the amount set in the city's fee schedule must accompany each seismic survey permit application.
- (d) No seismic activity shall be permitted on city-owned fee property without the express consent of, and pursuant to the conditions established by, the City Council.
- (e) No seismic activity shall be permitted within City owned rights of way or utility easements without first entering into a license agreement with the City, prepared by the City Public Works Department.
- (f) Proof of insurance in the form of a standard commercial general liability insurance bond. This coverage must include premises, operation, products, completed operations, sudden or accidental pollution, blanket contractual liability, broad form property damage, independent contractors' protective liability and personal injury. This coverage shall be a minimum combined single limit of one million dollars (\$1,000,000) per occurrence location for bodily injury and property damage.
- (g) A detailed map showing the locations of all vibration and geophone points.
- (h) A road repair agreement obligating the seismic operator to fund the repair of any damage caused by the operator to City infrastructure.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-234. Application and review of well permit.

- (a) Every application for a well permit shall be in writing, signed by the operator or person duly authorized to sign on the operator's behalf, and filed with the department of planning and development services. A separate application is required for each well bore. The City may engage a third party consultant or engineer to review information submitted by the applicant for compliance with this ordinance and verification of the submittal information. Submission information, including, but not limited to, the plans, programs and lists detailed in Section 9.5-234 (b) must be approved by City Council with the initial well permit application considered in

conjunction with the specific use permit.

(b) Each well permit application shall contain the following information:

- (1) The date of the application; and
- (2) An accurate legal description of the property to be used for the oil and/or gas operation, the parcel, the production unit and name of the geologic formation as used by the railroad commission. Property recorded by plat should be referenced by subdivision, block and lot numbers, as applicable; and
- (3) If a specific use permit has been approved for the proposed oil and gas operation, a list of all requirements set forth in the approved specific use permit and a written summary of how those requirements will be met; and
- (4) A map showing the proposed transportation route identifying all public and private roads/routes intended for use within the territorial limits of the city, which transportation route must be consistent with the requirements of the specific use permit; and
- (5) The proposed well name(s); and
- (6) The surface owner name(s), phone number(s), address(es), and, if possible, email address(es); and
- (7) The mineral lessee name(s), phone number(s), address(es), and, if possible, email address(es); and
- (8) Operator name, phone number, facsimile transmission number, address, and, if available, e-mail address; and
- (9) If the operator is a corporation or other non-corporeal entity, the state of incorporation or organization; or if the operator is a partnership, the names and addresses of the general partners; and
- (10) Name, phone number, address, and, if possible, email address of the individual designated to receive notice on behalf of the operator; and
- (11) Name of representative with supervisory authority over all oil and/or gas operation site activities and a 24-hour phone number; and
- (12) Owner and address of each parcel of property within 1,000 feet of the parcel(s) on which the proposed drill site is located; and
- (13) A site plan of the proposed drill site and operation site depicting the color, height, size, bulk and location of all structures and equipment specific to the proposed site, including, but not limited to, all security cameras, lighting, utilities and the floodplain, and the location and description of all improvements, structures, utilities and floodplain areas within 1,000 feet of the proposed drill site; and

- (14) The name, address and 24-hour phone number of the person to be notified in case of an emergency; and
- (15) The exact acreage and number of wells included in the specific use permit application; and
- (16) Copies of all reports required by the railroad commission, specifically, including a copy of the approved railroad commission form W-1 and/or P-4; and
- (17) A signed statement of intent to execute a road repair agreement with the city as provided in this Article, or, if a specific use permit has already been approved for the drill site and a road repair agreement signed, a copy of the signed road repair agreement; and
- (18) A description of all fuel sources to be used at the proposed drill and operation site, including but not limited to all public utilities needed during drilling and operation; and
- (19) A description of the water source to be used during well fracturing, drilling and/or operations; and
- (20) A copy of the approved railroad commission permit to drill, including attachments and survey plats that are applicable to the drill and/or operation sites; and
- (21) A storm water pollution prevention plan (SWPPP) complying with all federal, state, and local storm water quality regulations, including any notice of intent (NOI) and notice of termination (NOT) requirements. A copy of the NOI shall be submitted to the City seven (7) business days prior to the commencement of any on-site activity; and
- (22) A tree protection plan complying with all requirements of the city, or, if a specific use permit has already been approved for the drill site, a copy of the tree protection plan previously approved; and
- (23) An erosion control plan complying with all requirements of the city, or, if a specific use permit has already been approved for the drill site, a copy of the erosion control plan previously approved; and
- (24) A hazardous materials management plan complying with all requirements of the city, or, if a specific use permit has already been approved for the drill site, a copy of the hazardous materials management plan previously approved. The hazardous materials management plan shall be filed with the oil and gas inspector, Fire Chief and Fire Marshal. The hazardous materials plan shall be kept current with any additions, modifications, and amendments concerning all construction related activities and oil and gas operations and production. The plan shall include HAZMAT and fire department response times and updated hazardous materials plans shall be submitted to the oil and gas inspector, Fire Marshal and Fire Chief within two (2) business days of any additions, modifications, and/or amendments; and
- (25) All current material safety data sheets (MSDS) detailing all the hazardous and non-hazardous materials and chemicals that will be located, stored, transported and/or

used at the drill site (including site preparation, boring, completion, fracturing (or similar programs) and production) shall be provided to the Inspector and Fire Marshal. The MSDS shall indicate all types, quantities, volumes and concentration of all additives used in the drilling, completion and fracturing (or similar programs). MSDS must be provided quarterly to the City consistent with the requirements of Section 9.5-242 (t) of this Article; and

(26) An emergency response plan complying with all requirements of the city, or, if a specific use permit has already been approved for the drill site, a copy of the emergency response plan previously approved. Said plan shall use existing guidelines established by the Railroad Commission, the Texas Commission on Environmental Quality, Texas Department of Transportation and the United States Environmental Protection Agency. The emergency response plan shall be kept current with any additions, modifications, and amendments concerning all construction related activities and oil and gas operations and production. Updated plans shall be submitted to the oil and gas inspector, Fire Chief and Fire Marshal within two (2) business days after any additions, modifications, and amendments are made. A copy of the emergency response plan shall be kept on-site. The emergency response plan shall, at a minimum, provide for:

- a. Prompt and effective response to emergencies regarding:
 1. Leaks or releases that can impact public health, safety, welfare;
 2. Fire, explosions, loss of well control or blow out at the well or in the vicinity of an oil or gas well; and
 3. Natural disasters;
- b. Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency, including a detailed plan that should address contacting city officials responsible for implementing city policy regarding notification and evacuation of residents, where necessary;
- c. The availability of personnel, equipment, tools, and materials as necessary at the scene of an emergency;
- d. Measures to be taken to reduce public exposure to injury and the probability of accidental death or dismemberment;
- e. Fire Department and HAZMAT response times;
- f. Emergency shut down of an oil or gas well and related site;
- g. The safe restoration of service and operations following an emergency or incident; and
- h. A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures; and

i. An annual certification and update of the emergency response plan shall be performed in accordance with Section 9.5-242 (r) of this Article.

(27) A noise management plan complying with all requirements of the city, prepared by a noise control engineer or other qualified person approved by the inspector, for any equipment used in the drilling, completion or production of a well as required in Section 9.5-243, hereof, or, if a specific use permit has already been approved for the drill site, a copy of the noise management plan previously approved. The noise management plan shall address the following:

a. Description of proposed facility and potential noise impacts. This analysis must include a comparison of the potential noise generation with the applicable noise standards;

b. Establish the ambient noise level for both the daytime and nighttime hours over a minimum of 48 hours;

c. Identify all noise mitigation techniques that will be implemented on the site including blankets/curtains, sound walls, and mufflers for generators and motors;

d. Best management practices used to reduce the impact of noisier operations such as pipe deliveries, use of horns for communication, tripping and fracturing; and

e. Mitigation of pure tone and low tone frequency noise; and

f. Maximum noise levels anticipated at the drill site.

(28) A signage plan complying with all requirements of the railroad commission for both the drill site and pipelines, or, if a specific use permit has already been approved for the drill or operation site, a copy of the signage plan previously approved; and

(29) A screening, fencing and landscape plan detailing compliance with all landscape and screening requirements required by city ordinance, including a proposed schedule detailing the timing of all landscaping, screening and fencing to be installed; or, if a specific use permit has already been approved for the drill or operation site, a copy of the screening, fencing and landscape plan previously approved; and

(30) A landscape irrigation plan as designed by a State of Texas licensed landscape architect detailing the appropriate type of irrigation for the site; measures to be taken to adequately irrigate all landscaping, including indicating the water source for irrigation and the proposed efforts to replace dead or dying screening vegetation, or, if a specific use permit has already been approved for the drill or operation site, a copy of the landscape irrigation plan previously approved. All trees on site shall be irrigated by a bubbler system; and

(31) A fully executed third-party landscape maintenance agreement detailing the

frequency and scope of the landscaping services to be provided; and

(32) A copy of the determination by the Texas Commission on Environmental Quality (TCEQ) or Railroad Commission concerning the depth of useable quality ground water; and

(33) Evidence of insurance and security meeting the minimum levels established by this Article; and

(34) All materials required pursuant to division 3 of this Article governing pipeline installation and safety; and

(35) A copy of all applicable right of way encroachment agreements; and

(36) A dust mitigation plan detailing measures to be implemented to mitigate and suppress dust generated at the drill site and the private vehicle access route, including a mud shaker for vehicles exiting the site, or, if a specific use permit has already been approved for the drill site, a copy of the dust mitigation plan previously approved; and

(37) A public education plan complying with the requirements of this Article, or, if a specific use permit has already been approved for the drill site, a copy of the public education plan previously approved; and

(38) A description of how the proposed operations are consistent with and adhere to the Southlake Comprehensive Master Plan, as amended; and

(39) A detailed evacuation plan addressing the evacuation strategy for a public or private school, hospital, senior living facility, assisted living and/or nursing care facility or daycare facility if any such facility will be located within one-half (1/2) mile of the edge of the proposed drill site; and, a detailed list of all homes or habitable structures to be notified in the event of an evacuation, including, without limitation, all persons residing within one-half (1/2) mile (2,640 feet) of the edge of the proposed drill site; or, if a specific use permit has already been approved for the drill site, a copy of the evacuation plan previously approved. The plan should address the methods that the operator will employ to notify the City in a timely manner that an event requiring evacuation has occurred, as well as the methods that will be employed to maintain a current, up-to-date, notification list. The plan shall also include an evaluation of alternate access points for ingress or egress to the drill site, other than the primary drive.

(40) A waste management plan that addresses human, solid and drilling production waste, or, if a specific use permit has already been approved for the drill site, a copy of the waste management plan previously approved.

(41) A Leak Detection and Compliance Plan (LDCP) to ensure that all site activities and equipment are in compliance with applicable rules and regulations. The LDCP shall include methodology to assess and evaluate the impact of drilling, fracturing, production, and other activities at the Drill site and immediate surroundings. Specific elements shall include, but are not limited to: a leak detection monitoring program, methods and equipment for emission measurements, site inspection activities, continuous distance

monitoring through SCADA, and a response plan to address emergency issues if they arise, and any other information required by the Planning and Development Services Director. Monitoring should include evaluation of potential impact to air, soil, surface water, or groundwater. In addition to other reporting requirements established by this Article, annual reporting of the monitoring results to the City is required with all laboratory data sheets, field logs, data summary, and actions taken in the previous monitoring period. The plan must be created in accordance with City-mandated guidelines and address the manner in which periodic inspections by a third party will occur to ensure compliance with the LDCP plan goals.

(42) A Green Completion plan that addresses equipment, techniques, practices and programs that will be implemented to reduce emissions.

(43) A gas dispersion model and a risk assessment and a blast study conducted by an unaffiliated third party with a licensed engineer on staff. The study must include a Risk Minimization Statement, which is a statement by the operator and supporting documentation by an unaffiliated licensed third party outlining the potential radius of influence and nature of impact during a potential well blowout scenario. This should consider potential explosive blast concerns to life and property and larger air quality impact due to a catastrophic event at the planned drill site. Reference to instances seen by industry operating similar equipment as that proposed should be provided as well as any supportive modeling performed. Included in the Risk Minimization Statement should be specific steps, equipment or procedures employed by the operator to reduce the risk of catastrophic failure at the drill site.

(44) A cement casing program. The program must demonstrate adherence to all Railroad Commission regulations and Section 9.5-245(a) of this Article; include a proposed schedule of work, a summary of other best management practices that the operator will employ, coordinate the on-site inspection of casing installation by the Inspector, and authorize access to all relevant operator-maintained reports.

(45) A continuous air quality monitoring plan that addresses the requirements outlined in Section 9.5 -242 (q) of this Article.

(46) A continuous water testing plan that addresses the requirements outlined in Section 9.5-242 (gg) of this Article.

(47) A traffic impact analysis study, which includes but is not limited to, proposed truck routes, types and weights of trucks and vehicles accessing the drill site, hours of the day that truck and vehicle traffic will be entering and leaving the site, days of the week that truck and vehicle traffic will be entering and leaving the site, turning movements associated with truck and vehicle traffic, proposed access points and proposed traffic control devices.

(48) Colored renderings of the site as viewed from all adjacent rights of way showing site elevations, screening walls and other landscaping and screening at the site.

(49) A line of site analysis indicating that permanent equipment on the site such as tanks, dehydrators, separators, vapor recovery systems and Christmas trees will be

screened and not visible from adjacent rights of way or residential properties and addressing the requirements outlined in Section 9.5-242 (h) of this Article.

(50) A list of green compounds that will be employed in the fracturing/drilling process.

(51) A Supervisory Control and Data Acquisition (SCADA) Plan. The plan shall outline how data from the drill site will be continuously collected in a real-time manner and how this data is monitored. Data shall be collected at every stage of the oil or gas drilling and production process. The plan shall address how the SCADA system will control factors such as leakage, fire, emergency shut-down, oil or gas flow rate and accumulated flow, line pressure, detection and control, well-head pressure, pump status, tank level and other critical factors defined by the City's consultant. In addition, the plan should define the equipment, sensors, hardware, communication interfaces (radio, wire, fiber optic and microwave) and electro-mechanical devices that will be employed and how these devices will function during an emergency situation.

(52) A soil sampling plan that addresses the parameters for testing requirements outlined in Section 9.5.242 (fff) of this Article.

(53) A site lighting plan designed to promote the safety of nighttime operations that complies with the City's Lighting Ordinance. The plan should include a photometric plan, indicating the type and color of light(s) to be used and demonstrate compliance with all Federal Aviation Administration requirements.

(c) All applications for a well permit shall be accompanied by an application fee in the amount set in the city's fee schedule.

(d) If the application for a well permit is approved, prior to a permit being issued, the operator shall deposit with the city the sum of \$50,000.00 for each drill site containing an approved well permit. The funds shall be maintained by the city in an interest-bearing account from which the city may reimburse itself for the actual administrative expenses, consulting fees, contracting fees or the funding of inspector position(s). All interest earned shall be credited to the fund balance or refunded to the operator if and when the minimum balance is achieved. The city shall invoice and notify the operator, in writing of any deduction from the application fund and within 15 days of receipt thereof, the operator shall pay to the city for deposit into the fund the amount necessary to return the balance to \$50,000.00. The operator may appeal any charge assessed against the fund by filing an appeal as provided in Section 224 of this Article. If the operator fails to maintain the fund as required by this Section, such failure shall constitute a violation of this Article, and the administrator may suspend or revoke the well permit and the city may pursue all remedies provided in this Article for such violation. Upon completion of all drilling activities, final inspection and approval by the city of a restored site, and fulfillment by the operator of all of operator's obligations under this Article, the city shall return any remaining account balance to the operator or the operator's approved assign.

(e) No well permit shall be issued if the proposed activities are not in conformance with the approved specific use permit and associated site plan, provisions of this Article, the building code, fire code and all other applicable city ordinances.

(f) Each well permit issued by the city shall state the following:

- (1) The name of the well and its operator;
- (2) The date on which the city issued each permit;
- (3) The date by which drilling must commence;
- (4) That if drilling is commenced on the well covered by the permit before the permit expires, the permit shall continue until the well covered by the permit is abandoned and the site restored;
- (5) By reference, the indemnity, insurance and security requirements set forth in this Article;
- (6) That no drilling operations (including the construction of internal private access roads) shall commence until the operator has provided such information;
- (7) By reference, the requirement for periodic reports;
- (8) By reference, the conditions of the applicable specific use permit;
- (9) By reference, the information contained in the permit application;
- (10) By reference, the applicable rules, and regulations of the railroad commission, including the applicable "field rules;"
- (11) The name, address and phone number of the person designated to receive notices from the city; and
- (12) By reference, all permits and fees required by the city.

(g) A decision to deny an application for a well permit shall be provided to the operator in writing, including the reason for the decision. The operator may appeal any such denial to the city council as provided in Section 224 of this Article.

(h) If an application for a well permit is denied, nothing herein contained shall prevent a new application from being submitted to the city for the same well. A new application fee is not required if the application is denied without prejudice. Applications denied with prejudice must be accompanied by a new application fee upon reapplication.

(i) If the application for a well permit is approved and a permit is issued, the operator shall file notice in the Tarrant County real property records indicating the physical location of the permitted drill site and the well/bore hole.

(j) A well permit shall automatically expire one year after the date of issuance of such permit if drilling has not commenced on the well covered by the permit within such period, provided, however, that the administrator may grant a one-year extension of time if existing conditions have not changed and an application for extension is filed with the administrator prior to expiration of the initial permit. If a well permit expires, the operator must file a new

application for a new well permit as provided in this division.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-235. Oil and Gas inspector.

(a) The administrator shall designate the inspector(s) who shall enforce the provisions of this Article. The inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this Article and its particular provisions. Failure of any person to comply with any such lawful order or directive shall constitute a violation of this Article.

(b) The inspector and fire marshal shall have the authority to enter and inspect any premises covered by the provisions of this Article to determine compliance with the provisions of this Article and all applicable laws, rules, regulations, standards or directives of the state. Failure of any person to permit lawful access to the inspector or fire marshal shall constitute a violation of this Article.

(c) The inspector shall conduct inspections of all permitted wells in the city to determine compliance with this Article and all regulations of the railroad commission.

(d) The inspector and/or administrator shall have the authority to request and receive any records, including any records sent to the railroad commission, logs and reports relating to the status or condition of any permitted well related to the health, safety and operations of the well. Failure of any person to provide any such requested material shall be a violation of this Article.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-236. Operator's agent.

Every operator of any well shall designate an agent, who is a resident of the state, upon whom all orders and notices provided in this Article may be served in person or by registered or certified mail. Every operator so designating such agent shall within ten business days notify the city secretary in writing of any change in such agent or such mailing address unless operations within the city are discontinued.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-237. Insurance and indemnification.

The operator shall provide or cause to be provided the insurance described below for each well for which a well permit is issued, and shall maintain such insurance until the well is abandoned and the site restored. The operator must provide to the city sufficient documentation that the operator's insurance complies with the minimum requirements and coverage amounts of this Section before the well permit may be issued.

(1) *Indemnification and express negligence provisions.*

Each well permit application issued by the city shall include the following language and regardless of whether such language is actually included in the well permit application, it shall be deemed to be included therein:

OPERATOR DOES HEREBY EXPRESSLY AND IRREVOCABLY RELEASE

AND DISCHARGE ALL CLAIMS, DEMANDS, ACTIONS, JUDGMENTS AND EXECUTIONS OF ANY AND ALL KINDS WHICH IT OR ITS SUCCESSORS OR ASSIGNS EVER HAD, OR NOW HAS OR MAY HAVE, OR CLAIMS TO HAVE, AGAINST THE CITY OF SOUTHLAKE, TEXAS, ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, EMPLOYEES, SPONSORS OR VOLUNTEERS, THE INSPECTOR, AND EACH OF THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS (THE CITY OF SOUTHLAKE, TEXAS AND ALL OTHER FOREGOING PARTIES BEING HEREIN REFERRED TO COLLECTIVELY AS THE "INDEMNIFIED PARTIES") CREATED BY OR ARISING OUT OF PERSONAL INJURIES, KNOWN OR UNKNOWN, OR 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 WELL PERMIT. OPERATOR AGREES TO FULLY DEFEND, PROTECT, INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PARTIES 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 BY THE INDEMNIFIED PARTIES CAUSED BY OR ARISING OUT OF, INCIDENTAL TO, OR OTHERWISE IN CONNECTION WITH ANY WORK PERFORMED BY OPERATOR UNDER A WELL PERMIT, INCLUDING WITHOUT LIMITATION, PERSONAL INJURIES AND DEATH IN CONNECTION THEREWITH WHICH MAY BE MADE OR ASSERTED BY OPERATOR OR OPERATOR'S AGENTS, ASSIGNS OR ANY THIRD PARTIES. OPERATOR AGREES TO FULLY DEFEND, PROTECT, INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM ANY CLAIMS, LIABILITIES OR DAMAGES SUFFERED AS A RESULT OF CLAIMS, DEMANDS, COSTS OR JUDGMENTS AGAINST THE INDEMNIFIED PARTIES, CREATED BY OR ARISING OUT OF THE ACTS OR OMISSIONS OF THE CITY OF SOUTHLAKE OR ANY OF THE OTHER INDEMNIFIED PARTIES, OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE OIL AND GAS WELLS, INCLUDING, BUT NOT LIMITED TO CLAIMS, LIABILITIES AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF ANY OF THE INDEMNIFIED PARTIES, INCLUDING THE SOLE NEGLIGENCE OF ANY INDEMNIFIED PARTY, OCCURRING IN THE COURSE AND SCOPE OF PERMITTING OR INSPECTING THE WELLS, DRILL SITES, PIPELINES AND OTHER AREAS INVOLVED IN OPERATOR'S ACTIVITIES. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY OF SOUTHLAKE, TEXAS AND THE OTHER INDEMNIFIED PARTIES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF ANY OF THE INDEMNIFIED PARTIES, WHETHER THAT NEGLIGENCE IS THE SOLE OR A CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH AND/OR DAMAGE. THE FOREGOING IS NOT INTENDED TO REQUIRE THE OPERATOR TO INDEMNIFY THE INDEMNIFIED PARTIES FROM THE INDEMNIFIED PARTIES' GROSS

NEGLIGENCE OR INTENTIONAL HARM, IRRESPECTIVE OF WHETHER THAT GROSS NEGLIGENCE OR INTENTIONAL HARM IS THE SOLE OR A CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH AND/OR DAMAGE.

(2) *General provisions regarding insurance.*

a. All policies shall be endorsed to read substantially as follows: “This policy will not be canceled or non-renewed without 30 days advanced written notice to the owner and the City of Southlake, Texas, except when this policy is being canceled for nonpayment of premium, in which case ten days advance written notice to both such parties is required.”

b. Liability policies shall be written by carriers licensed to do business in Texas and with companies with at least an “A” rating issued by the A.M. Best Company.

c. Liability policies shall name as “additional insured” the city and the other indemnified parties as defined in this Article. Waivers of subrogation shall be provided in favor of all indemnified parties.

d. The operator shall present to the city copies of the pertinent portion of the insurance policies evidencing all coverage and endorsements required by this Section before the issuance of the well permit, and the acceptance by the city of a policy without the required limits and/or coverage shall not be deemed a waiver of these requirements. The city may, in its sole discretion, accept a certificate of insurance in lieu of a copy of the pertinent portion of the policy pending receipt of such document by the city. After the issuance of the well permit, the city may require the operator to provide a copy of the most current insurance coverage and endorsements for review at any time. An administration fee in the amount set in the city’s fee schedule will be charged to cover the cost of such review.

e. Claims-made policies shall not be accepted except for excess policies and environmental impairment (or seepage and pollution) policies.

f. Insurance coverage amounts set forth shall be reviewed periodically to ensure adequacy is maintained.

(3) *Required insurance coverage.*

a. *Commercial or comprehensive general liability insurance:*

1. Bodily injury and property damage coverage shall be a minimum combined single limit of \$10,000,000.00 per occurrence with an annual general aggregate coverage of \$25,000,000.00. This coverage must include premises, operations, blowout or explosion, products, completed operations, blanket contractual liability, underground property damage, underground reservoir (or resources) damage, broad form property damage, independent contractor’s protective liability and personal injury.

2. Underground reservoir (or resources) damage coverage shall be on an occurrence basis, shall not be limited to sudden and accidental occurrences, shall not have a discovery or reporting limitation and shall not exclude damage to water tables, formation or strata.

3. Environmental impairment (or seepage and pollution) coverage shall be either included in the comprehensive general liability coverage or as separate coverage. Such coverage shall not exclude damage to the lease site. If environmental impairment (or seepage and pollution) coverage as written on a "claims made" basis, the policy must provide that any retroactive date applicable precedes the effective date of the issuance of the permit. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, oil and gas, waste material, or other irritants, contaminants or pollutants. Such policy shall provide for a minimum combined single limit coverage of \$25,000,000.00 per occurrence. A discovery period for such peril shall not be less than ten years after the occurrence.

b. *Automobile liability insurance:* Minimum combined single limit of \$20,000,000.00 per occurrence for bodily injury and property damage. Such coverage shall include owned, non-owned and hired vehicles.

c. *Worker's compensation insurance:* In addition to the minimum statutory requirements, coverage shall include employer's liability limits of at least \$1,000,000.00 for each accident, \$1,000,000.00 for each employee, and \$1,000,000.00 for occupational disease, and the insurer shall agree to waive rights of subrogation against the city, its departments, agents, officers, servants, employees, sponsors and volunteers, the inspector, and each of their respective heirs, personal representatives, successors and assigns, for any work performed for the city by the operator.

d. *Excess (or umbrella) liability insurance:* Minimum limit of \$25,000,000.00 providing excess coverage for each of the perils insured by the preceding liability insurance policies.

e. *Control of well insurance:*

1. Minimum limit of \$10,000,000.00 per occurrence, with a maximum deductible of \$250,000.00 per occurrence.

2. Policy shall cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, and seepage and pollution damage. Damage to property in the operator's care, custody and control with a sub-limit of \$500,000.00 may be added.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-238. Security.

- (a) The operator shall file with the city a cash bond in the amount of \$200,000.00 covering each pad site before the issuance of the well permit for the well.
- (b) As to each well, the cash bond shall secure the obligations of the operator to:
 - (1) Comply with the road repair agreement and the insurance provisions set forth in this Article; and
 - (2) Pay fines and penalties imposed upon the operator by the city for any breach of the well permit, this Article, or the zoning ordinance if the operator fails to pay such fines or penalties within 15 days of the assessment of such fines or penalties; and
 - (3) Comply with the conditions of the applicable specific use permit; and
 - (4) Comply with the performance obligations of this Article, including but not limited to the screening requirements.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-239. Periodic reports.

- (a) The operator shall notify the city of any change to the following information within one business day after the change occurs:
 - (1) The name, address or phone number of the operator; or
 - (2) The name, address or 24-hour phone number of the person(s) with supervisory authority over drilling, production or operations activities; or
 - (3) The name, address or phone number of the person designated to receive notices from the city; or
 - (4) The operator's emergency action response plan including "drive-to maps" from public rights of way to each area covered by the applicable specific use permit and associated site plan.
- (b) The operator shall provide a copy of any "incident reports" or written complaints submitted to the railroad commission or any other state or federal agency within 15 days after the operator has notice of the existence of such reports or complaints.
- (c) Beginning on December 31st after each well is completed, and continuing on each December 31st thereafter until the operator notifies the city that the well has been abandoned and the site restored, the operator shall prepare a written report to the city identifying any changes to the information that was included in the application for the applicable well permit that has not been previously reported to the city. In addition, the annual report shall include copies of all internal reports responses to a pipeline or well emergency, copies of operations and maintenance logs and a copy of the emergency action plan, if updated.

(Ord. No. 880-A, § 2, 5-20-08)

(d) A quarterly extended gas analysis report must be provided to the City once completion or fracturing begins. The report must be in a format and include data as specified by the City's gas consultant or petroleum engineer.

Sec. 9.5-240. Amended well permits.

(a) An operator must submit an application to the city's planning and development services department to amend an existing well permit in order to commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) the existing permit, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing permit, or to otherwise amend the existing permit in any manner. The director of planning and development services shall review the proposed amendment to determine if an amendment to the applicable specific use permit shall be required. If the director of planning and development services determines that an amendment to the applicable specific use permit is also required, the application for an amended well permit shall be processed as a new well permit application and shall include all application materials and the appropriate fee for new well permit applications set forth in the city's fee schedule and an amendment to the applicable specific use permit shall also be required.

(b) Applications for amended well permits shall be in writing on forms provided by the city and signed by the operator, and shall include the following:

(1) An application fee, which shall be non-refundable regardless of the outcome of the application, in the amount set in the city's fee schedule; and

(2) A description of the proposed amendments; and

(3) Any changes to the information submitted with the application for the current well permit (if such information has not previously been provided to the city); and

(4) Such additional information as is reasonably required by the inspector or the administrator to demonstrate compliance with the applicable specific use permit and associated site plan and the provisions of this Article; and

(5) Such additional information as is reasonably required by the inspector or the administrator to prevent imminent destruction of property or injury to persons.

(c) If, in the judgment of the administrator or the inspector, the activities proposed by the amendment require an inspection, an inspection fee in the amount set in the city's fee schedule shall be charged. In such event, the operator must pay such inspection fee before the amended well permit will be processed further.

(d) Incomplete applications shall not be accepted for filing and shall be returned to the operator within 30 business days. The city shall return any application as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator or where the operator is in violation of any federal, state or local regulation with respect to the proposed activities covered by the application.

(e) If the activities proposed by the amendment are materially different from that previously

approved by the city, and, in the judgment of the city or the inspector, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing permit, or that was not otherwise taken into consideration by the existing permit, or the applicable specific use permit, the amendment shall be processed as a new well permit application and an amendment to the applicable specific use permit shall be required.

(f) A decision to deny an amendment to a well permit shall be provided to the operator in writing, including an explanation of the basis for the decision. The operator may appeal any such denial to the city council as provided in this Article.

(g) No amended well permit shall be issued if the proposed activities do not conform to the approved specific use permit and associated site plan, and comply with all applicable governmental ordinances and regulations.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-241. Transfer of well permits.

(a) A well permit may be transferred upon written request by the operator with the consent of the city upon compliance with the following conditions:

(1) If the transferee agrees to be bound by the terms and conditions of the current well permit, road repair agreement and demonstrates compliance with the pipeline regulations set forth in division 2 of this Article; and

(2) If all information previously provided to the city as part of the current well permit application is updated to reflect any changes; and

(3) If the transferee provides the insurance and security required by this Article and otherwise complies with all applicable governmental ordinances and regulations.

(b) The insurance and security provided by the transferor shall be released if consent of the city to such transfer, provided, however, that the transfer shall not relieve the transferor from any liability to the city arising out of any activities conducted prior to the transfer, and the city may retain all or a portion of any insurance and security if the administrator determines that any facts exist which would, in the administrator's opinion, create the likelihood of liability secured by such insurance or security for such prior activities.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-242. On-site operation requirements.

(a) It shall be unlawful to drill a well, or to re-drill, deepen, re-enter, activate or convert any abandoned well, the center of which, at the surface of the ground is located within 500 feet from any City-owned public park; or within 1,000 feet from any habitable structure or property line of any occupied public or private school.

(b) All distance in (a) above, shall be measured from the proposed well bore in a straight line, without regard to intervening structures or objects, to the closest exterior point of the habitable structure.

- (c) The operator shall install erosion control measures in compliance with the plan approved by city council as a condition of the specific use permit, all applicable city ordinances and all requirements of the public works department.
- (d) A drill site or operation site may only be allowed in a floodplain with the approval of the city and, where applicable, the U.S. Army Corps of Engineers.
- (e) The operator shall keep all gates to the drill, production, and operation site locked at all times that the operator or the operator's employees are not within the enclosure. A "Knox Padlock" or a "Knox Box with a key" shall be provided to the fire chief to access the drill site to be used only in case of an emergency.
- (f) The operator shall construct all facilities located off the pad site and used for parking, loading, unloading, driveways, and other vehicular access areas of concrete, unless an alternative material is approved by the city council as a condition of a specific use permit or an approved variance. The operator shall maintain the surface for such facilities and drive approach in good condition and repair and meet the minimum requirements set forth in the fire code approved by the city council, as amended. The pad site is not required to be constructed of concrete or asphalt.
- (g) The operator shall install and maintain a temporary chain-link fence with all-weather screening fabric and secured entrance gate, both at least eight feet in height around the entire drill site to secure the drilling site and obscure view of the drilling activities. In addition to the foregoing, the operator shall also be required to comply with the screening requirements set forth in the zoning ordinance.
- (h) A masonry perimeter wall of a minimum of eight feet in height shall be required to enclose and visually screen the well and all associated equipment during post-drilling operations. No permanent equipment shall be visible from the adjacent rights of way or from residential properties. No permanent equipment on the drill site shall be a higher elevation than the associated screening wall. Only devices such as antennas, lightning arrestors, or other related devices may extend above the height of the screening wall. Such wall must be completed within 60 days of completion of drilling or as required by the city council as a condition of the specific use permit. The masonry perimeter wall shall have an architectural metal gate that shall remain locked when the operator or operator's employees are not within the enclosure. In addition to the foregoing, the operator shall also be required to comply with the screening requirements set forth in the zoning ordinance, as well as the City's Policy on Natural Resource Extraction Activities found in the Southlake Comprehensive Master Plan, as it may be amended.
- (i) An eight-foot high chain link fence with barbed wire or similar device as approved by city council shall be installed around all equipment on the pad site and interior to the masonry screening wall.
- (j) The city council may modify the screening requirements set forth in paragraphs (g)--(i) as a condition of any specific use permit.
- (k) No refining process or any process for the extraction of hydrocarbon products shall be performed at a drill site or operation site, except that a horizontal separator may be maintained for the separation of liquids from oil and gas. Any such separator may serve more than one well. All production equipment on an operation site shall be maintained in good working order at all

times.

(l) No person shall place, deposit or discharge or cause or permit to be placed, deposited or discharged any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substance, refuse, wastewater, brine or hazardous substance from any production operation or the contents of any container used in connection with any production operation in, into or upon any public right of way, storm drain, ditch or sewer, sanitary drain or sewer, any body of water, or any private property in the city.

(m) The operator shall provide and maintain in good working order all fire suppression and prevention equipment required by any applicable federal, state or local law, or the operator's emergency response plan, at the operator's cost. The operator shall keep adequate foam fire suppressant equipment and supplies at each drill site, in addition to any fire suppressant equipment and supplies deemed necessary by the Fire Marshal.

(n) No operator shall excavate or construct any lines for the conveyance of fuel, water, oil, oil and gas or petroleum liquids on, under or through the streets, alleys or other properties owned by the city without an easement or right of way license from the city, at a price to be agreed upon, and then only in strict compliance with this Article, other city ordinances, and all requirements of the department of public works.

(o) No person may dig up, break, excavate, tunnel, undermine, break up, damage any public street or leave upon any public street any earth, or other material or obstruction without prior written permission from the city, and then only in compliance with this Article, other city ordinances, and all requirements of the department of public works.

(p) No well permit shall be issued for any well to be drilled within any of the public rights of way of the city and/or future streets shown on the master thoroughfare plan. No street shall be blocked, encumbered or closed due to any exploration, drilling or production activities unless prior consent is obtained from the city, and then only temporarily.

(q) *Air Quality Testing* – To ensure that the overall air quality impact to the City is minimized and that future air impact from operations do not exceed regulatory criteria on or off the drill site, the City will direct the following air quality activities:

(1) Baseline Air testing - Prior to any disturbance of the drill site, the City will conduct a Baseline Air Survey over a 48-hour period. At a minimum, the sampling will include evaluation on benzene, toluene, ethylbenzene, xylenes, ozone, nitrogen oxides, sulfur dioxides, and formaldehyde. The operator may conduct independent sampling during the evaluation period or be present during testing if desired.

(2) Continuous Air Monitoring - Continuous air monitoring is required immediately following the commencement of fracturing and must be maintained until all wells are abandoned. Two monitors will be placed at the site to allow a general evaluation of the possible upwind and downwind portions of the drill site. The location of the continuous monitoring equipment will be discussed with the operator's representative prior to installation. The system may include either a static auto-gas chromatograph, fence line monitoring system or equivalent as approved by City Council or delegated City staff. At

a minimum, monitoring will include evaluation of benzene, toluene, ethylbenzene, xylenes, ozone, nitrogen oxides, sulfur dioxides, and formaldehyde. Alteration to the monitoring approach to accommodate specific compounds may be considered by the City as appropriate. The data will be made available to the public via either a dedicated website or direct incorporation with the Texas Commission on Environmental Quality air monitoring network, as applicable.

(3) Field Inspection Monitoring – At the City’s discretion, periodic field inspection may be performed using calibrated monitoring equipment to confirm the drill site is operating in conformance with the Leak Detection Compliance Plan elements. If a specific leak is identified, discrete sampling may also be performed by the City as necessary. The operator will be notified prior to performance of a Field Inspection to allow for an operator representative to be present if desired.

All costs related to air sampling and monitoring equipment operation shall be borne by the operator. Testing and laboratory protocol shall comply with the Texas Commission on Environmental Quality (TCEQ) monitoring system reporting standards. If requested, the operator may witness testing conducted by the City consultant.

(r) *Annual meeting with city required.* Each operator shall meet on an as-needed basis or at a minimum annually, with representatives of the city to review all plans and other relative submission requirements outlined in Section 9.5-234 of this Article. These reviews shall be in accord with U.S. Department of Transportation, U.S. Environmental Protection Agency, Texas Commission on Environmental Quality, and Railroad Commission requirements and the operator will:

- (1) Furnish or update a copy of all plans required by Section 9.5-234; and
- (2) Review the responsibilities of each governmental organization; and
- (3) Review the operator’s adherence to all plans and other requirements.

(s) *Blowout prevention.* In all cases, the operator shall install and utilize blowout prevention equipment such as a downhole preventer valve and a blind shear ram on all wells being drilled, re-worked, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout and/or loss of well control during oil and/or gas operations as required by and in conformance with the requirements of the railroad commission and the recommendations of the American Petroleum Institute. The operator must equip all drilling wells with adequate blowout preventers, flow lines and valves commensurate with the working pressures involved as required by the railroad commission. A blind/shear ram shall be used as part of the blowout preventer stack. Well control surface equipment shall be inspected after rig up to ensure function and appropriate application for the well parameters. During completion of the well the operator shall run a seating nipple in the tubing string to accommodate the installation of a subsurface safety shut off valve. The subsurface safety shut off valve shall be installed if producing conditions necessitate the use of the device for the safe operation of the well.

(t) *Chemical and materials storage.* The operator shall store all hazardous or non-hazardous chemicals and materials in such a manner as to prevent, contain and facilitate rapid remediation

and clean-up of any accidental spill, leak or discharge. The operator shall maintain all current material safety data sheets (MSDS) (as defined in Section 9.5-234 (b) (25) of this Article) for all chemicals including all hazardous and non-hazardous materials and chemicals on site and shall provide the city with updated copies on a quarterly basis to address additional chemicals that may have been introduced or removed or quantities that have been changed from the previously submitted MSDS. The operator shall comply with all applicable federal and state regulatory requirements for the proper labeling of containers. The operator shall take all appropriate pollution prevention actions including but not limited to raising chemical and materials and bulk storage (e.g., placing such materials on wooden pallets), installing and maintaining secondary containment systems, and providing adequate protection from stormwater and weather elements. The operator shall only use appropriate green compounds as approved by the City Council as part of the submission requirement outlined in Section 9.5-234 (50) of this Article. The site shall not be used for long-term storage of additives.

- (u) *Closed loop mud systems.* The operator shall install and use a closed loop mud system instead of lined reserve pits.
- (v) *Disposal well.* No saltwater or other type of disposal well shall be permitted.
- (w) *Drilling.* No air, gas or pneumatic drilling shall be permitted.
- (x) *Drilling fluids.* Low toxicity glycols, synthetic hydrocarbons, polymers and esters shall be substituted for conventional oil-based drilling fluids. Appropriate green fluids shall be used to the extent possible.
- (y) *Drilling fluid storage pit.* No drilling fluid mud, storage or reserve pits shall be located within the city, except steel containers used in a closed loop mud system.
- (z) *Drill stem testing.* All open hole formation or drill stem testing shall be done during daytime hours and in no event may drill stem testing be performed during nighttime hours. Drill stem tests may be conducted only if the well effluent produced during the test is processed through an adequate oil and/or 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.
- (aa) *Drip pans and other containment devices.* The operator shall install drip pans and other containment devices underneath all tanks, containers, pumps, lubricating oil systems, engines, fuel and chemical storage tanks, system valves, connections and any other areas or structures that could potentially leak, discharge or spill hazardous liquids, semi-liquids or solid waste materials, including hazardous waste. A secondary containment system shall be installed around all separators, tank batteries, and other fluid containing equipment on the drill site.
- (bb) *Dust, vibrations, odors.* The operator shall conduct all drilling and production operations in such a manner as to minimize, so far as practicable, dust, vibration or noxious odors, and in accordance with the best accepted practices incident to drilling for the production of oil, gas and other hydrocarbon substances. The operator shall construct and operate all equipment so that vibrations, dust, odor or other harmful or annoying substances or effect created by the operations carried on at any drill site or from anything incident thereto will be minimized, to minimize the possibility of injury or annoyance of persons living in the vicinity. The operator shall maintain

all aspects of the site and structures thereon in good operating condition and good appearance. 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. Brine water, sulphur water, or water in mixture with any type of hydrocarbon may not be used for dust suppression. A mud shaker for truck traffic shall be installed with the construction of any access road. Dust suppression must comply with the regulations set forth in the City's Erosion and Sediment Control and Illicit Discharge Ordinances.

(cc) *Electric motors.* Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to city ordinances and applicable national codes.

(dd) *Emergency response plan.* Prior to the commencement of oil and/or gas drilling, or any other hydrocarbons production activities, the operator shall submit to the oil and gas inspector, Fire chief and Fire Marshal an emergency response plan to the city, and no drilling or other production activity shall commence until such plan has been approved by the city. The emergency response plan shall be kept current with any additions, modifications, and/or amendments concerning all construction related activities, oil and/or natural gas operations and production. Updated plans shall be submitted to the oil and gas inspector and Fire Marshal within two (2) business days after any additions, modifications and/or amendments to said plan(s). A copy of the emergency response plan shall be kept on site. The emergency response plan shall meet the requirements outlined in Section 9.5-234 (26) of this Article.

(ee) *Fire prevention; sources of ignition.* The operator shall provide and maintain on the drill site at all times during drilling and production operations all firefighting apparatus and supplies which are required by the fire chief, or the fire chief's designee, or which are required by any applicable federal, state or local law, at the operator's cost. 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. All potential off-site permanent sources of ignition shall be setback a minimum distance of 300 feet from the surface well bore.

(ff) *Frac or surface ponds.* Fracturing ponds or surface fresh water ponds constructed for the primary purpose of impounding water used for well fracturing or other well related purposes are not permitted within the city.

(gg) *Fresh water wells , Fresh Water Perennial Streams, Fresh Water Intermittent Streams, Freshwater Ponds, and/ or Wetlands .* The operator shall, within 120 days of its completion date, equip each well with a cathodic protection system to protect the production casing from external corrosion, unless the inspector approves an alternative method of protecting the production casing from external corrosion. The operator of a well shall provide the inspector with a "pre-drilling" and "post-drilling" water analysis from any existing water wells, that have been properly registered with appropriate regulatory authorities, and water surface features within 2,000 feet of the oil or gas well. All costs related to water sampling and monitoring equipment operation will be reimbursed by the operators and include:

As a component of each well permit application, the applicant shall include the names and addresses of all property owners within 2,000 feet of the proposed well. Additionally, all

surface water features within 2,000 feet of the well must be identified with flow direction. Upon submission of the well permit application, the City will engage a third party to contact and coordinate the sampling of water wells and surface water features within 2,000 feet of the proposed gas well. Samples shall be obtained prior to any construction activity to establish baseline water quality data. Continuous quarterly testing shall commence once construction of the first gas well begins and shall continue until the abandonment of all gas wells on the site. Individual water well sampling may take place at anytime should there be a complaint made by the actual owner of a well and after investigation by city staff concerning water well impairment after gas well construction has begun. The baseline data will allow comparison with pre-existing conditions. The testing parameters will be determined by the City as outlined in the continuous water testing plan, but will include the following at a minimum: volatile organic compounds, total petroleum hydrocarbons, semi-volatile organic compounds, total dissolved solids, total suspended solids, methane, ethane, ethene, sulfate, glycols, chloride, hexavalent chromium, sodium, barium, strontium, and turbidity. Additional compounds may be added based on the provided MSDS information. If it is found that a water well is no longer in use and without possibility of future use or if the water well owner objects to having the water well tested, the owner of the fresh water well may waive the right to have the operator test the water.

All costs related to water sampling and monitoring equipment operation will be borne by the operator.

(hh) *Gas emission or burning restrictions.* No person shall allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame. No open flaring is permitted. A vapor recovery system is required. The fracturing process shall not be completed until a sales line is in place to service the well. Green completion methods, as defined by this Article, are required.

(ii) *Firefighter/Emergency Responder training.* Each operator shall be required to provide training and instruction to the fire department and other emergency responder personnel regarding well safety and emergency management protocol, and all information specific to the well operation which is requested by the fire chief or the fire chief's designee, or which is relevant to emergency management activities at the site. Such fire department training must occur prior to the operator conducting drilling operations under the operator's first well permit.

(jj) *Grass, weeds, trash.* The operator shall keep the drill site and operation site clear of debris, pools of water or other liquids, contaminated soil, brush, high grass, weeds, combustible trash and other waste material within a radius of 100 feet around a pad site and other drill site or operation site equipment not located on the pad site.

(kk) *Wells within flight path.* The operator of any well to be located within the flight path of an airport must obtain Federal Aviation Administration approval and must submit a fully executed and recorded aviation easement as part of the well permit application process.

(ll) *Hazardous materials plan.* The operator shall file with both the oil and gas inspector and Fire Marshal, a hazardous materials management plan and shall update such plan by filing any additions, modifications, and amendments regarding all construction related activities and oil and natural gas operations and production. The operator shall file such updated plans with the inspector and fire marshal within two (2) business days of any material change in the activities at the site from that approved in the well permit. The city council will be notified of any such changes. The hazardous material plan shall meet the requirements outlined in Section 9.5-234

(24) of this Article.

(mm) *Organic solvents.* Organic solvents, such as trichloroethylene and carbon tetrachloride, shall not be used for cleaning any element, structure or component of the drilling rig, platform and/or associated equipment, tools or pipes.

(nn) *Muffling exhaust.* 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.

(oo) *Pipe dope.* Lead-free, biodegradable pipe dope shall be substituted for American Petroleum Institute (API) specified pipe dope. Sealant shall be used around pipe threads to ensure and maintain the integrity of the seal.

(pp) *Signs.*

(1) The operator shall immediately install and continuously display a sign at the gate on the temporary and permanent site fencing erected pursuant to the requirements of this Section. Such sign shall be constructed of a durable material, maintained in good condition and, unless otherwise required by the railroad commission, shall have a surface area of not less than two (2) square feet, or more than four (4) square feet and shall contain the following:

- a. Well name and number; and
- b. Name of operator; and
- c. Address of property; and
- d. The emergency 911 number; and
- e. Telephone numbers of two persons responsible for the well who may be contacted 24 hours a day in case of an emergency.

(2) The operator shall post and continually maintain permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" immediately upon completion of the drill site fencing at the entrance of each drill site and tank battery or in any other location approved or designated by the fire chief of the city. Such signs shall conform to the approved sign plan. Each sign shall include the emergency notification numbers of the fire department and the operator, well and lease designations required by the railroad commission.

(3) The operator shall post and continuously maintain a "Muster Point" sign at the entrance of the drill site and notify the city's fire marshal of its location. Such sign shall conform to the approved sign plan. In the event of a fire or discovery of a fire, smoke or unauthorized release of flammable or hazardous materials on any property, the operator shall immediately report such condition to the fire department and all capable persons on

the drill site shall immediately report to the muster point. The operator shall instruct all persons who enter the drill site of this emergency procedure prior to their entrance onto the drill site.

(4) A sign shall be placed at the exit to the site that reads “ALL TRUCK TRAFFIC IS REQUIRED TO FOLLOW THE APPROVED TRANSPORTATION ROUTE. VIOLATORS SUBJECT TO \$2,000 FINE. TODOS LOS CAMIONES ESTAN OBLIGADOS A SEGUIR LAS RUTAS DE TRANSPORTE APROBADAS. LOS INFRACTORES ESTAN SUJETOS A MULTAS DE \$2,000.” The sign lettering, size, and background shall meet city specifications. A directional arrow shall be placed immediately below the above sign and shall indicate the proper direction of travel for exiting truck traffic. The sign shall be placed in a location that is visible to exiting truck traffic and shall not be placed within the city right of way.

(5) No other signs shall be permitted at the site other than those required by this Article or other law.

(qq) *Storage of equipment.* On-site storage is prohibited on the operation site. No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well. 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. The fire marshal shall determine whether any equipment on the site constitutes a fire hazard and must be removed. No refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises, provided that this shall not be deemed to exclude a conventional horizontal gas separator or dehydrator.

(rr) *Storage tanks.*

(1) All tanks and permanent structures shall conform to the A.P.I. specifications unless other specifications are approved by the fire marshal. All storage tanks shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be a minimum of three feet in height and one and one-half times the contents of the largest tank in accordance with the fire code of the city, and buried at least one foot below the surface. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tank.

(2) All tanks shall be set back pursuant to the standards of the railroad commission and the national fire protection association, but in all cases, shall be at least 100 feet from any public right of way and adjacent property line. 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. The city council may require installation of barriers and/or other protections for any tank located within 150 feet of a public right of way or other public property.

(3) Meters, storage tanks, separation facilities and other aboveground facilities shall not be placed in a floodway or within a 100-year floodplain.

(4) Tank placement must comply with all Railroad Commission requirements and must at a minimum, be setback at least 300 feet from any other fuel source not related to

operator's operations.

(ss) *Surface casing.* The operator shall set surface casing in full compliance with the applicable rules and regulations of the appropriate state and local authorities for groundwater protection. The operator shall permit the inspector or city consultant to access the site during casing installation, provided that the individual has the appropriate personal protective equipment. The inspector or city consultant must be provided with access to all relevant reports associated with the setting of the casing. The operator shall provide the city with 72-hours notice prior to setting the well casing. The downhole preventer valve and casing string must be pressure tested prior to drilling the next section of the hole. If the casing fails a pressure test, isolation tools must be placed in the hole to locate the leak and corrective measures must be implemented to repair the failure and ensure the pressure integrity of the casing string before conducting subsequent operations.

(tt) *Thermal Oxidizer.* A thermal oxidizer shall be required at times deemed necessary by the city's inspector or consultant.

(uu) *Valves.* The operator shall equip each well with a shutoff valve to terminate the well's production. The fire department shall have access to the drill site to enable it to close the shut-off valve in an emergency. The operator shall paint these valves red and post signs to show they are shut off valves. No-bleed pneumatic valves shall be used.

(vv) *Waste disposal.*

(1) 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 above-ground self-contained tank. All disposals must be in accordance with the rules of the railroad commission and any other applicable local, state or federal agency. Unless otherwise directed by the railroad commission, waste materials shall be removed from the site and transported to an off-site disposal facility not less often than one time every 30 days. Water stored in on-site tanks shall be removed as necessary.

(2) 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 Article and any other applicable ordinance of the city.

(ww) *Watchperson.* The operator must keep a watchman or security personnel at all times on-site during the drilling or re-working of a well when other workmen are not on the premises.

(xx) *Environmentally sensitive areas.* No drilling or production of gas or oil or other drilling or production activity of any kind shall be permitted within environmentally sensitive areas, provided that wells may have a target location or bottom-hole location that is under an environmentally sensitive area if the well is drilled directionally from a location outside the environmentally sensitive area.

(yy) *Heavy vehicles.* Access to all operational wells shall be limited to state or federal highways within the city and to those routes otherwise designated in Article IV, chapter 118 of this Code, governing the transportation of heavy vehicles on city streets, unless another route is

expressly approved under the specific use permit.

(zz) *Hydrogen Sulfide.* If a gas or oil field in the city is identified as a Hydrogen Sulfide (H₂S) field or if a well is producing Hydrogen Sulfide (H₂S) gas, the operator shall immediately cease operation of that well or facility.

(aaa) *Bond for surface restoration.* The operator shall restore surface locations of all dry wells and/or abandoned operations as nearly as possible to its original condition. The operator shall submit a performance bond in a form acceptable to the city to cover the costs of any clean-up necessary. The amount of the performance bond shall be \$60,000.00; provided, however, the amount may be higher if the administrator determines that the estimated cost of the restoration project, including labor and materials, will likely exceed this amount.

(bbb) *Security system.*

(1) *Alarm system.* Within ten days of completion of the perimeter fencing, the operator shall install a fully operational security system that meets the following requirements:

a. *Remotely monitored access control system.* The operator shall install and maintain at all vehicular gates in the perimeter fencing a permitted, remotely monitored control access system. The system shall meet the following requirements:

1. *Monitoring.* The system shall be monitored by central monitoring facility capable of monitoring security related alarm systems and meeting all required state and federal guidelines. The central monitoring facility shall be staffed and operational at all times.

2. *Access control.* Gate access shall be secured by an access control system with an unlocking and re-locking mechanism that requires a card, numeric code or other identification device for gate operation. The system shall record the identity of the entering party and the date and time of such entry.

3. *Intrusion detection system.* The system shall include a gate closure contact sensor that will be activated when the gate closure sensor is violated in any manner by non-identified access. The system shall be equipped to signal a control panel which activates an on-site audible signal and registers at the monitoring facility when an access breach is detected.

4. *Open gate detection.* The security system shall include an open gate detection alarm to notify the monitoring facility if the gate closure sensors, once accessed, are not closed and thereby reactivated within five minutes of being opened.

5. *Exit sensor.* The operator shall equip all gates with a motion sensor, weight sensor or other device to unarm the gate for vehicles exiting the site.

b. *Personnel exit gate.* The operator shall install an exit-only gate for personnel near the vehicular gate entrance.

c. *Response to alarms.* The operator shall obtain an alarm permit for the alarm system from the police department in accordance with the city's alarm ordinance. The monitoring facility shall notify the operator and the police department in case of security breach at the drill site. The operator shall respond on-site with an authorized representative within 45 minutes of notification of alarm. Fines for false alarms shall be as provided in the city fee schedule. The administrator may suspend the well permit of any operator responsible for more than 20 false alarms in any calendar year.

d. *Automated audible alarm system:* The operator shall install and maintain an audible alarm system at each drill site to provide warnings for a substantial drop in pressure, the release of any gas or oil, or fire. Said alarm system shall be approved by the fire chief or his or her designee prior to beginning any drilling or production operations.

(2) *Security camera(s).* The operator shall at all times after the temporary perimeter fence is in place, have installed an adequate number of 24-hour operating security cameras to ensure coverage of the drill site, as determined by the police chief or his or her designee, inside the perimeter fence, and post on the fencing of the site signs indicating that any activity on the site may be recorded by video surveillance. The location of the security camera(s) and picture resolution of the recordings shall be subject to the approval of the Police Chief. Camera systems shall be maintained in proper operating condition and must perform all of the following functions:

- a. Capture clear video images of all traffic entering and exiting the gate(s); and
- b. Capture clear video images of all production equipment located on the site; and
- c. Be equipped with motion detection technology; and
- d. Be equipped with panning technology to pan immediately to any motion detected on the site; and
- e. Show the date and time of all activity on the footage; and
- f. Be capable of being viewed at the monitoring facility.

The operator shall maintain continuous video data for a period of at least 672 hours. At the request of the city, the operator shall produce to the city any recorded views of the fenced area. Data from videos may only be requested by the administrator or law enforcement officials.

(ccc) *Tank battery equipment.* The operator shall equip any tank battery facilities with a remote

foam line and lightning arrestor system, and shall erect a sign clearly indicating the location of the foam line and lightning arrestor system. All connections for the remote foam line and lightning arrestor system shall meet industry specifications and be approved by the fire marshal's office.

(ddd) *Utility lines.* The operator shall bury all utility lines to the operation site and/or drill site.

(eee) *Emergency response plan testing.* The operator shall conduct a thorough testing of its evacuation plan on an annual basis including performing "unplanned" evacuation scenarios, to ensure disaster preparedness. The operator shall provide seven days written notice of the time and date of each test to the fire marshal. The fire marshal, or the fire marshal's designated representative, may observe the test and may require the inclusion of certain evacuation scenarios as a component of the test. The operator shall then certify in writing to the fire marshal on an annual basis that a test of the evacuation plan has been performed.

(Ord. No. 880-A, § 2, 5-20-08)

(fff) *Soil sampling pre- and post-drilling; periodic soil sampling.* It shall be unlawful to contaminate any soil above regulatory thresholds, and fail to expeditiously remediate such contamination, at any drill site in the city. Soil sampling shall be subject to the following requirements:

- a. Upon application for an oil and gas well permit, soil sampling shall be conducted by a representative of the City prior to the commencement of any drilling activities at the proposed drill site to establish a baseline study of site conditions. A minimum of one (1) soil sample will be taken at the location of any proposed equipment to be utilized at the site to document existing conditions at the drill site (i.e., each well, above-ground storage tank, compressor, separator).
- b. A licensed third party consultant shall be utilized to collect and analyze all "pre-drilling" and "post-drilling" soil analysis. The cost of such fees and charges assessed by the third party contractor shall be borne by the operator;
- c. Soil samples will be collected and analyzed utilizing proper sampling and laboratory protocol set forth by the TCEQ and/or EPA. The results of the analyses will be addressed to the City and a copy of the report provided to the operator. The analyses will include the following analyses at a minimum: TPH, VOCs, SVOCs, Chloride, Barium, Chromium, and Ethylene Glycol.
- d. Subsequent to the drilling of each well, periodic soil samples shall be taken as determined by the city during inspection events to document soil quality data at the drill site.
- e. When abandonment occurs pursuant to the requirements of the Texas Railroad Commission and as referenced in Section 9.5-247 of this Article, the City will collect "post-operation" samples when equipment is removed from the drill site to document that the final conditions are within regulatory requirements.

f. If it is found that the soil contains a prohibited amount (pursuant to state or federal law) of a hazardous substance, the operator shall remediate the location within thirty (30) days and thereafter soil sampling shall be collected and analyzed at such locations on the drill site as are necessary to determine compliance.

Sec. 9.5-243. Operations and equipment practices and standards.

(a) The operator shall take adequate nuisance prevention measures to prevent or control offensive odor, fumes, dust, noise and vibration. Brine water, sulphur water, or water in mixture with any type of hydrocarbon may not be used for dust suppression.

(b) No person shall permit any lights located on any drill site or operation site to be directed in such a manner so that they shine directly on public streets or adjacent or nearby property. Site lighting shall be shielded and directed downward and internal to the drill or operation site so as to avoid glare on public streets and buildings within 300 feet. In addition, all operations shall meet the city's Lighting Ordinance 693-B, as amended. Federal Aviation Administration approval is also required where applicable.

(c) The operator shall at all times comply with the rules and regulations of the railroad commission, including but not limited to all applicable field rules.

(d) Noise.

(1) No well shall be drilled, re-drilled or any equipment operated at any location within the city in such a manner so as to create any noise which causes the exterior noise level, when measured at the either the property line of the tract upon which the nearest habitable structure is located, or 100 feet from the nearest habitable structure (as measured to the closest exterior point of the habitable structure), whichever is closer to the well, to exceed the ambient noise level:

a. By more than ten decibels during fracturing operations; and

b. By more than five decibels during daytime hours or more than three decibels during nighttime hours for all activities not addressed in paragraph a. above.

c. An operator shall not drill or re-drill a well or operate any equipment in such a manner so as to create pure tones where one-third octave band sound-pressure level in the land with the tone exceeds the arithmetic average of the sound-pressure levels of two contiguous one-third octave bands by five (5) dB for center frequencies of 500 hertz and above, and by eight (8) dB for center frequencies between 160 and 400 hertz, and by fifteen (15) dB for center frequencies less than or equal to 125 hertz.

d. An operator shall not drill or re-drill a well or operate any equipment in such a manner so as to create low-frequency outdoor noise levels that exceed the following decibel levels:

16 hertz octave band: 65 dB

32 hertz octave band: 65 dB
64 hertz octave band: 65 dB

- (2) The operator shall be responsible for establishing and reporting to the city the pre-drilling ambient noise level prior to the issuance of a well permit. Once the drilling is complete, the operator shall be required to establish a new ambient noise level prior to the installation of any new noise generating equipment. In lieu of the foregoing, the city may elect to perform the required noise testing and establish the ambient noise level.
- (3) Adjustments to the noise standards as set forth above in subsection (d)(1) of this Section may be permitted in accordance with the following:

Permitted Increase Duration of Increase	
dBA	Minutes*
5	15
10	5
15	1
20	less than 1

** Cumulative minutes during any one hour period*

- (4) No workover or re-working operations shall be permitted during nighttime hours.
- (5) If the proposed gas well is within 1,000 feet of any habitable structure, the operator must comply with these additional noise abatement measures:
- a. Exterior noise levels, including pure tone and low frequency data, shall be continuously monitored to ensure compliance. This data shall also include an audio recording to help identify the source of sound level “spikes” throughout the logging period. The continuous noise monitoring equipment shall be capable of wireless transmission of real-time noise and audio data. Access to this real-time data shall be made available to the inspector. The cost of all such monitoring shall be borne by the operator. The noise readings shall also be submitted to the inspector on a weekly basis in an electronic format or other format specified by the inspector. The weekly report shall state whether the drill site is in compliance with the noise requirements. If the report states that the drill site is not in compliance with the noise standards, then the report shall state the measures that are being taken to return the drill site to compliance and the timeframes for implementing these remedial measures.
 - b. At a minimum, the operator shall install noise reduction blankets on the drill site boundaries facing any habitable structure within 1,000 feet. The height of boundary blankets shall at a minimum be 30 feet. The height may be increased at the discretion of the inspector in response to topographic necessity. In addition to the boundary barriers, the operator must, at a minimum, install additional noise reduction blankets to mitigate noise generated from the rig substructure, the rig floor area, brake drum housings, mud pumps, diesel motors, and generators. The blankets shall be constructed of a fire-retardant material approved by the fire

department.

(6) Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the inspector may be used to ensure compliance with this Article. All soundproofing shall comply with accepted industry standards and subject to approval by the fire marshal. Noise mitigation measures will be evaluated on a case by case basis. The inspector may require the operator to use noise reduction blankets that meet a standard of STC 30 or greater, if necessary.

(7) The sound level meter used in conducting noise evaluations shall meet the American National Standard Institute's standard for sound meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

(8) A citation may be issued for the failure to immediately correct the violation upon notice of violation by the city or the inspector.

(9) During nighttime operations the operation of vehicle audible back-up alarms are prohibited. If the operator uses any equipment during nighttime operations which are required to have back-up alarms, the operator shall provide and use only approved non-auditory signaling systems, such as spotters or flagmen. Deliveries of pipe, casing and heavy loads shall be limited to daytime hours, except for emergency situations. The derrick man and driller shall communicate only by walkie-talkie or other non disruptive means when the derrick man is in the derrick. Horns may not be used to signal for connection or to summon crew (except that a horn may be used for emergency purposes only). The operator shall conduct on-site meetings to inform all personnel of nighttime operations noise control requirements.

(10) The operator shall file a noise management plan which shall detail how the equipment used in the drilling, completion, transportation, or production of a well complies with the maximum permissible ambient noise levels of this Article. The noise management plan must be approved by the director of planning and development services and must comply with the following requirements:

- a. Identify operation noise impacts; and
- b. Provide documentation, if applicable, establishing the ambient noise level prior to and after the installation of the noise-generation equipment verifying compliance with this Section; and
- c. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
 1. The location, type, nature and proximity of adjacent development; and
 2. Seasonal and prevailing weather patterns, including wind directions; and

3. Vegetative cover on or adjacent to the site; and
4. Topography; and
5. Operation and site noise management measures which may include, but not be limited to use of critical grade mufflers on generators and motors; use of structural noise curtains, walls, or enclosures; and best management practices by limiting or eliminating noisier operations, such as tripping, deliveries of pipe, casing and heavy loads, use of horns for communication and operation of vehicle audible back-up alarms during nighttime hours.

Violation of the noise management plan shall be a violation of this Article.

- (e) Parallel to any oil and gas gathering pipeline, a flow-back line may be installed to handle water and oil and gas flow-back following well fracture treatment.
- (f) Except in the case of an emergency, the operator shall schedule well servicing operations and any deliveries to the site to occur during daytime hours, provided, however, that the time limits set forth herein do not apply during the well drilling and well completion process.
- (g) The operator shall immediately notify the city of any substantial accumulations of dirt, dust, mud or other debris deposited on city thoroughfares by vehicles involved in the well drilling or servicing or pipeline installation process. The operator shall be responsible for removing accumulations of dirt, dust, mud or other debris from the city thoroughfares on a daily basis. If for safety or other reasons, the city elects to perform the removal, the cost of such removal shall be assessed against and paid by the operator.
- (h) Within 30 days of the completion of the well, or within 30 days of completion of re-working a well, as the case may be, or within such longer timeframe as determined appropriate by the administrator, but not to exceed 90 days, the operator shall clean-up and clear the area around the well of all material and equipment, fill all holes and excavations, and grade the land and return it to its original condition, including replanting of vegetation to match the surrounding area.
- (i) The operator shall remove the drilling rig from the site within 30 days of the completion of all drilling activities indicated on the applicable well permit.
- (j) No person shall place, deposit, or discharge or cause or permit to be placed, deposited, or discharged any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substance, refuse, wastewater, brine or hazardous substance from any production operation or the contents of any container used in connection with any production operation in, into or upon any public right of way, storm drain, ditch or sewer, sanitary drain or sewer, any body of water or any private property.
- (k) Compression facilities are prohibited in the city.
- (l) The operator shall install truck shakers along the private access road to remove mud from vehicles prior to entering the public right of way.

(m) Fracturing and completion of wells is prohibited during the months of June, July and August, regardless of the source of the water used in the fracturing and completion processes. (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-244. Workover or re-working of well; notice.

Any person who intends either to workover or re-work a well using a drilling rig or to fracture stimulate a well after initial completion shall give written notice to the city at least 20 days before the activities begin. The notice shall identify where the activities will be conducted and shall describe the activities in reasonable detail, including but not limited to the duration of the activities and the time of day they will be conducted. The notice must also provide the address and 24-hour phone number of the person conducting the activities. The person conducting the activities shall post a sign on the perimeter fencing at least three (3) business days prior to conducting workover or re-working operations giving the public notice of the activities, including the name, address, and 24-hour phone number of the person conducting the activities. Such sign shall conform to the approved sign plan. No well shall be worked over without the approval of the inspector. If the inspector determines that an inspection is required, the actual cost of the inspection shall be assessed against the respective operator's application fund balance required by Section 9.5-234(d) of this Article.

Fracturing operations shall be scheduled to occur during daytime hours. The operator shall add non-radioactive tracing or tagging additives into fracturing fluids and the oil and gas inspector and the city's consultant shall be notified, in writing, of the formula identifying such additive(s). The written formula submitted by the operator shall be unique for each permitted drill site.

Sec. 9.5-245. Well operations and inspections.

(a) *Surface casing.* An operator must set and cement sufficient surface casing to protect all usable-quality water strata, as defined by state law. The operator shall notify the Inspector and where required by the City, the City's technical advisor, in writing at least 96 hours prior to the scheduled time for setting and cementing surface casing and such work shall not commence until the inspector has approved the proposed work in writing. In addition, the following requirements shall apply:

- (1) Centralizers must be used at an interval of one centralizer per 100 feet, or ten centralizers per 1,000 feet; and
- (2) New surface casing is required; and
- (3) Proper floating equipment shall be used; and
- (4) Class "H" or class "C" cement with accelerators shall be used; and
- (5) The operator shall circulate cement to surface; if not, the operator shall cement with one-inch tubing and top off; and
- (6) The operator shall wait on cement a minimum of 12 hours prior to commencing further drilling operations; and
- (7) The operator shall test the blowout preventer before drilling out of surface casing

to 1,000 psi.

(8) The casing string will be pressure tested prior to drilling the next section of the hole. If the casing fails a pressure test then isolation tools will be placed in the hole to locate the leak and the corrective measures will be taken to repair the failure and ensure pressure integrity of the casing string before conducting subsequent operations.

(b) *Completion.* The operator shall notify the oil and gas inspector in writing no less than twenty (20) days prior to starting completion procedures such as fracturing and perforating, and such work shall not commence until the inspector has approved the proposed work in writing. At least three (3) business days before operations are commenced, the operator shall post a sign at the access road entrance of the drill site advising the public of the date the operations will commence; the sign shall have white letters on a red background. The well must be equipped with a blowout preventer or Christmas tree in place before this operation is commenced. If a bridge plug is set over a producing formation prior to additional completion, it must be pressure-tested to a sufficient pressure to ensure that it is not leaking. Only compounds approved by the City Council, as outlined in Section 9.5-234 (b) (50) of this Article, shall be used in the fracturing and stimulation of a well. Fracturing operations shall be scheduled to occur during daytime hours. The operator shall add non-radioactive tracing or tagging additives into the fracturing fluids and the inspector and the city's consultant shall be notified, in writing, of the formula identifying such additive(s). The written formula submitted by the operator shall be unique for each permitted drill site. Air, gas, or pneumatic drilling shall not be permitted.

(c) *Pipeline.* The operator shall notify the inspector in writing at least 72 hours prior to the first sale, and such sale shall not commence until the inspector has approved the proposed work in writing.

(d) *Final inspection.* After the site has been cleaned up and screened, the operator shall notify the inspector for a final inspection. Prior to the final inspection, the operator must provide the city with geographic coordinates of the well bore, using the North American Datum 1983 (NAD 83), Texas State Plane - North Central Zone (4202), in U.S. feet.

(e) The inspector shall conduct periodic inspections at least every six months of all permitted wells in the city to determine that the wells are operating in accordance with the requirements of this Article and all regulations of the railroad commission, and may, in the inspector's discretion, conduct such additional inspections as the inspector deems appropriate to insure safe and proper operations of the wells. The actual cost of each inspection shall be assessed against the respective operator's application fund balance required by Section 9.5-234(d) of this Article.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-246. Supplemental drilling.

(a) Supplemental drilling to deepen or directionally drill a well that has not been abandoned shall be conducted in accordance with the conditions of the applicable specific use permit and associated site plan and the well permit for the well.

(b) The operator shall provide the city with a copy of additional railroad commission permits that allow drilling to a deeper depth.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-247. Abandonment of wells and pipelines.

- (a) Within 60 days after abandonment of a well or drill site, the operator shall plug the well in accordance with railroad commission standards, clean the site, clear it of all material and equipment, fill all holes and excavations, and grade the land and return it to its original condition including replanting of vegetation to match the surrounding area. The operator shall cut and remove all well casings to a depth of at least ten feet below the surface. Additionally, the operator shall mark the exact location of plugged and abandoned wells with a steel marker not less than four inches in diameter set in cement and extending at least four feet above mean ground level. The operator shall weld, stamp or otherwise permanently engrave the operator's name, lease name and well number and location, into the marker's metal. A plugged and abandonment marker may not be removed without the approval of the city council.
- (b) Structures may be built no closer to an abandoned well than is permitted pursuant to state law, including but not limited to the applicable rules and regulations of the railroad commission.
- (c) Within 60 days after abandonment of a pipeline, the pipeline operator shall purge and plug the line in accordance with the rules and regulations of each governmental agency with jurisdiction over the activity, including but not limited to the railroad commission, Environmental Protection Agency and the Texas Commission on Environmental Quality. The operator shall also be required to comply with the provisions of division 3 of this Article, governing pipeline safety and operations.
- (d) Abandonment of a drill site must be approved by the inspector and approval requires completion of the following by the operator:
 - (1) The derrick and all appurtenant equipment thereto shall be removed from the drill site; and
 - (2) All equipment, materials and other surface installations shall be removed from the drill site; and
 - (3) All concrete foundations, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site; and
 - (4) All holes and depressions shall be filled with clean, compactable soil; and
 - (5) All waste, refuse or waste material shall be removed from the drill site; and
 - (6) All other requirements of this Article have been met, including but not limited to restoration of the drill site; and
 - (7) Conduct a phase II environmental site assessment and submit the results of the assessment to the city engineer. The city engineer shall determine whether environmental remediation work must be performed by the operator prior to abandonment of the drill site.
- (e) In accordance with Section 9.5-247 of this Article, the operator shall request a final

inspection of a well intended to be abandoned and furnish the following information to the inspector:

(1) A copy of the W-3A "Notice of Intention to Plug and Abandon" and "W-3 Plugging Record" forms on the same date these forms are submitted to the railroad commission; and

(2) 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 and shall take no longer than 45 days once commenced.

(f) All abandoned wells or drill sites shall meet the most current abandonment requirements of the railroad commission and this Article prior to the issuance of any building permit for development of the property.

(g) The director of planning and development services shall indicate the location of each plugged and abandoned well on the city's land use map.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-248. Clean-up.

(a) *Clean-up after well servicing.* 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 30 days.

(b) *Clean-up after spills, leaks and malfunctions.* After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the fire marshal 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. The operator shall be subject to criminal citation and a fine of up to \$2,000.00 per violation for each day the violation is permitted to continue.

(c) *Painting.* The operator shall paint and maintain all production equipment at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the director of planning and development services 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. 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 director of planning and development services. Notwithstanding the foregoing, the city council may require the use of specific paint colors, on a case-by-case basis, as part of the applicable specific use permit.

(d) *Blowouts.* In the event of the loss of control of any well, the operator shall immediately take all reasonable steps to regain control regardless of any other provision of this Article and shall notify the administrator and fire marshal as soon as practicable. If the administrator or fire marshal determines 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 administrator or fire marshal 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 they deem necessary to regain control of such well, and all costs incurred by the city shall be assessed against the operator and the operator shall pay such costs within ten days of receiving an invoice from the city. In the event that the operator fails to pay such costs as provided herein, the city may charge such costs to any fund or bond posted by the operator to secure such costs, and shall also 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 administrator or fire marshal in gaining control of said well. (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-249. Technical advisor.

The city may from time to time employ a technical advisor or advisors who are experienced and educated in the oil and gas industry or the law as it pertains to oil and gas matters. The function of such advisor(s) shall be to advise, counsel or represent the city on such matters relating to oil and gas 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. 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 Article, then the cost for fees or charges assessed pursuant to this Article incurred by the city shall be assessed against the operator and the operator shall pay such costs within ten days of receiving an invoice from the city. In the event that the operator fails to pay such costs as provided herein, 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 administrator or fire marshal in gaining control of said well. 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. (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-250. Remedies of the city.

(a) If an operator or the operator's officers, employees, agents, contractors, subcontractors or representatives fails to comply with the conditions of the applicable specific use permit and associated site plan or any requirement of a well permit (including any requirement incorporated by reference as part of the permit), or any applicable provisions of this Article or any other city ordinances, the city shall endeavor to give written notice to the operator specifying the nature of the alleged failure and giving the operator a specified time to cure, taking into consideration the nature and extent of the alleged failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community; provided, however, that if circumstances warrant proceeding without notice, no notice will be sent. In any case, failure to give such notice shall not prohibit the city from pursuing any available remedy.

(b) If the operator does not cure the alleged failure within the time specified by the city, the city may notify the railroad commission and request that the railroad commission take appropriate action. In addition, the city may pursue all other remedies allowed by law, including but not limited to any or all of the following:

- (1) The administrator may suspend the well permit until the alleged failure is cured; and

(2) The administrator may revoke the well permit if the operator fails to initiate and diligently pursue a cure; and

(3) The administrator may seek recourse against the security required by provisions of this division; and

(4) A criminal citation may be issued for violation of the specific use permit, this Article or any other ordinance or order of the city.

(c) The operator may appeal a decision to suspend or revoke the well permit or other remedial order or action of the city taken pursuant to this Section (other than a criminal citation) to the city council as provided in this Article.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-251. Enforcement, right of entry.

The administrator, fire marshal and the inspector are authorized and directed to enforce this Article, the terms and conditions of any approved specific use permit and the provisions of any well permit. Whenever necessary to enforce the foregoing, or whenever there is reasonable cause to believe there has been a violation of any of the foregoing, administrator, fire marshal and/or the inspector may enter upon any property covered by this Article at any reasonable time to inspect or perform any duty or requirement imposed by this Article. If entry is refused, the city shall have recourse to pursue every remedy provided by law and equity to gain entry.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-252. Public information.

(a) Public information regarding well permit activity.

(1) After approval of a permit application, the operator shall submit to the inspector an accurate written timeline account of all planned operational events associated with the permit. The account must be updated weekly and must thoroughly describe the events that will occur. Events to be documented shall include, but are not limited to, site preparation and grading, site construction of the drilling rig and accessory structures, the expected amount of time spent drilling on site, all casing installation, testing, disassembly of the drilling rig, pipeline installation, fracture stimulation, maintenance, installation of production facilities, site clean-up and production.

(2) The operator shall submit an educational letter to the administrator for approval detailing drilling operations within 15 days of approval of the well permit. The letter shall detail typical operations associated with oil and gas drilling activity with an intended audience of the general public. The topics to be detailed shall include, but are not limited to, site preparation, site development and construction, drilling, casing, fracturing, pipeline construction, production, transportation, and general weekly, monthly and yearly maintenance of the operation site. The letter will be published on the City's web site and further disseminated using social media for the benefit of the public.

(3) At least once each calendar year, the operator shall have a representative attend a

city-wide Southlake Program for the Involvement of Neighborhoods (SPIN) meeting and respond to citizen questions and complaints. The director of planning and development services shall notify each operator of the time and date of the annual SPIN meeting that the operator or a representative of the operator shall attend.

(Ord. No. 880-A, § 2, 5-20-08)

Secs. 9.5-253--9.5-256. Reserved.

DIVISION 3.

OIL AND GAS PIPELINE STANDARDS

Subdivision A.

General Provisions

Sec. 9.5-257. Purpose.

It is hereby declared to be the purpose of this division to, to the extent permitted by state and federal law, establish reasonable and uniform limitations, safeguards and regulations for present and future operations related to transporting oil and gas and other substances produced in association with oil and gas, within the corporate limits of the city to protect the health, safety and general welfare of the public; minimize the potential impact to property and persons; provide for separation between residential uses and incompatible pipeline uses; avoid unreasonable burdens on residential tracts of land caused by easements and utility uses that prevent or hinder the full use and development of such residential tracts; protect the quality of the environment; and encourage the safe and orderly transport of oil and gas resources.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-258. Definitions.

The words and phrases used in this division are specifically defined in Section 9.5-222 of this Article. All technical industry words or phrases related to the transportation of oil, gas, hydrocarbons and other substances produced in association with oil, gas and other hydrocarbons not specifically defined shall have meanings customarily attributable thereto by prudent operators in the oil and gas pipeline industry.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-259. Exemption for franchised utility pipelines.

Nothing contained in this division shall apply to a pipeline for which a franchise has been obtained from the city.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-260. Pipeline permit required.

It shall be unlawful for any person, acting either for himself or as an agent, employee, independent contractor or servant of any other person, to commence to install, construct, reconstruct, rework, modify, replace, or operate a pipeline or any section of a pipeline or to assist

in the installation, construction, reconstruction, reworking, modification, replacement or operation of a pipeline, or install monitoring or recovery wells, unless the appropriate pipeline permit has first been obtained permitting such activities.

(Ord. No. 880-A, § 2, 5-20-08)

Secs. 9.5-261--9.5-265. Reserved.

Subdivision B.

Regulated Pipelines

Sec. 9.5-266. General requirements and construction standards.

(a) The provisions of this subdivision shall govern all regulated pipelines as defined in this Article.

(b) The following regulations shall apply to all regulated pipelines:

(1) No regulated pipeline for the transportation of gas, oil or hydrocarbons shall be constructed or laid except on rights of way or easements owned by the owners or operators of wells or third party pipeline companies, or upon designated drilling tracts and upon rights of way or easements necessary to connect future wells to present lines.

(2) In order to install, construct, maintain, repair, replace, modify, remove or operate a regulated pipeline, the pipeline operator must first obtain from the city an easement or license on, over, under, along or across any affected city streets, sidewalks, alleys and other city property. Such easement or license shall continue for as long as pipeline operations continue under any regulated pipeline permit.

(3) The pipeline operator of any regulated pipeline shall:

a. Not interfere with or damage existing utilities including but not limited to: water, sewer or gas lines, storm drains, electric lines or the facilities of public utilities located on, under or across the course of such right of way; and

b. Construct such pipeline or cause same to be constructed out of new pipe; and

c. Grade, level and restore the affected property to the same surface condition, as nearly practicable, as existed before operations were first commenced; and

d. Backfill all trenches and compact such trenches to 95 percent standard density proctor in eight-inch lifts and construct the regulated pipeline so as to maintain a minimum depth of eight feet below the finished grade except in public rights of way, where minimum cover to the top of the pipe shall be at least eight feet below the bottom of any adjacent roadside ditch. No public roads may be crossed by open cut. During the backfill of any regulated pipeline excavations, the pipeline operator shall bury "Buried Pipeline" warning tape one foot above any

such pipeline to warn future excavators of the presence of a buried pipeline. The administrator may require that sections of proposed regulated pipeline be constructed at deeper depths based upon future city infrastructure needs. The administrator may also require that a proposed or existing regulated pipeline be relocated should it conflict with the proposed alignment and depth of a gravity dependent utility; and

e. Construct, repair and/or maintain of all regulated pipelines so as to meet or exceed the applicable minimum criteria established by the statutory or regulatory requirements of the state and federal governments for such pipeline; and

f. Design and construct all regulated pipelines in accordance with this subdivision and the latest standards mandated by the U.S. Department of Transportation (DOT) and railroad commission for pipelines operating within a class 3 location in accordance with 49 CFR 192.111; and

g. Equip all regulated pipelines subject to this subdivision with an automated pressure monitoring system that detects leaks and shuts off any line or any section of line that develops a leak. In lieu of such system, the pipeline operator may have 24-hour pressure monitoring of the pipeline system which provides monitoring of the pipeline within the city limits. Any monitoring system(s) shall be keyed to or required to notify the city's emergency response providers in order to provide them with immediate notice of any leak.

(c) Upon approval of a regulated pipeline permit, and prior to the issuance of such permit, the pipeline operator shall deposit with the city, and shall maintain at all times during the continuation of pipeline operations, a fund with the city containing a minimum running balance of \$15,000.00 for each regulated pipeline permit application approved. The funds shall be maintained by the city in an interest bearing account from which the city shall reimburse itself for the actual administrative expenses, consulting fees, contracting fees or the funding of inspector position(s). All interest earned shall be credited to the fund balance or refunded to the operator if and when the minimum balance is achieved. The city shall invoice and notify the pipeline operator, in writing, of any deduction from the application fund, and, within 15 days of receipt thereof, the pipeline operator shall pay to the city, for deposit into the application fund, the amount necessary to return the balance to \$15,000.00. The pipeline operator may appeal any charge assessed against the fund by filing an appeal as provided in this Article. If the pipeline operator fails to maintain the fund as required by this Section, such failure shall constitute a violation of this Article, and the administrator may suspend or revoke the regulated pipeline permit and the city may pursue all remedies provided in this Article for such violation. If the pipeline subject to the regulated pipeline permit is disconnected from all sources or supplies of gas, hazardous liquids and chemicals and capped or sealed at the ends and/or removed in accordance with the provisions of this subdivision, and any required site remediation completed, following final inspection and approval by the city, and fulfillment by the pipeline operator of all of pipeline operator's obligations under this Article, the city shall return any remaining account balance to the operator or the operator's approved assign.

(d) Within 60 days after completion of pipeline construction the pipeline operator shall

provide the city with as-built or record drawings of the pipelines. Accuracy of the record drawings shall meet a survey level of one foot to 50,000 feet. The scale of the record drawings shall be a minimum of one inch to 40 feet. The drawings shall also be supplied in a DFF digital file format with the location tied to at least one nearby GPS (global positioning system) city monument. If the new pipeline length exceeds 1,000 feet within the city, the pipeline shall be tied to at least two GPS city monuments.

(e) A preconstruction conference with the pipeline review committee shall be required prior to the commencement of pipeline construction.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-267. Regulated pipeline permit application requirements.

(a) At least 45 days prior to the scheduled commencement of the installation, construction, reconstruction, reworking, modification, replacement or operation of a new regulated pipeline, the pipeline operator shall submit an application and pay a fee in the amount set in the city's fee schedule for a regulated pipeline permit to the city.

(b) A regulated pipeline permit application shall meet the following requirements:

(1) Any applications for a new regulated pipeline or other activities regulated by this subdivision shall be submitted to the city on a form prescribed by the city; and

(2) Each application for a regulated pipeline permit shall be accompanied by five paper sets and one electronic set of plans showing the dimensions and locations of the regulated pipeline and related items or facilities within the subject right of way or easement, as well as all proposed lift stations, pumps or other service structures related to such pipeline and the location, type and size of all existing utilities, drainage, right of way and roadway improvements. The plans must additionally show the elevation and location of all known public utilities within 15 feet of the centerline of the proposed pipeline. Any application that fails to meet these requirements will be returned unfiled to the applicant; and

(3) Within 30 days after the date of filing of said application and plans, the city shall send notice to the applicant as to whether the application will be accepted for processing and the total charge due. If the application is rejected, reasons for rejection of the application shall be provided in writing.

(c) The following information shall be provided in the application for a regulated pipeline permit:

(1) The name, business addresses and telephone numbers of the pipeline operator; and

(2) The names, titles and telephone numbers of the following:

a. The person signing the application on behalf of the pipeline operator; and

b. The person designated as the principal contact for the submittal; and

- c. The person designated as the 24-hour emergency contact; and
- (3) The origin point and the destination of the proposed subject pipeline; and
- (4) A text description of the general location of the proposed subject pipeline; and
- (5) A description of the substance to be transported through the proposed subject pipeline; and
- (6) A copy of the substance material safety data sheet (MSDS); and
- (7) The maximum allowable operating pressure on the proposed subject pipeline, along with the specified minimum yield strength (SMYS) of the pipe, its pressure class and design calculations in accordance with 49 CFR 192.105, assuming a class 3 or better location; and
- (8) The normal operating pressure range of the proposed subject pipeline, not to exceed the maximum allowable operating pressure as designated above; and
- (9) Engineering plans, drawings and/or maps with summarized specifications showing the horizontal location, covering depths and location of shutoff valves of the proposed subject pipeline. (The location of shutoff valves must be known in order for emergency responders to clear area for access valves.) To the extent that information can be obtained, drawings shall show the location of other pipelines and utilities that will be crossed or paralleled within 15 feet of the proposed subject pipeline right of way; and
- (10) A description of the consideration given to matters of public safety and the avoidance, as far as practicable, of existing habitable structures and congregated areas; and
- (11) Detailed cross section drawings for all public street right of way and easement crossings; and
- (12) Methods to be used to prevent both internal and external corrosion; and
- (13) A binder or certificates of all bonds and insurance as required under this division; and
- (14) All application materials required pursuant to the city's tree preservation ordinance, as it may be amended, including a tree survey measured from the outer edge of any improvements, construction areas, development, equipment, materials, temporary roads, access easements and/or built structures, extending 25 feet, without regard to intervening structures or objects; and
- (15) A proposed alignment strip map showing name and address of all affected property owners; and
- (16) A site plan showing the location of such pipeline conforming to the city's

standards for site plans, pursuant to Section 40 of the zoning ordinance, as amended. (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-268. Permit review process and procedures.

(a) No regulated pipeline permit shall be approved or issued if the proposed activities do not fully conform to all provisions of this Article and all other applicable city ordinances, state and federal law. No regulated pipeline permit may be issued unless and until a specific use permit is approved by the city council for the well or wells within the city intended to be served by such pipeline.

(b) All requirements for a regulated pipeline permit as provided in this subdivision must be completed by the pipeline operator prior to any regulated pipeline permit being considered as being administratively complete. Any application submitted that is determined to be administratively incomplete shall be returned to the pipeline operator within ten business days of the submittal date along with a letter documenting the deficiencies of the application, if any.

(c) Within 30 days after the date of presentation of said application and plans, the administrator shall send notice to the applicant as to whether the application will be accepted for filing and the total charge due. If the application is rejected as incomplete, the administrator shall provide the reasons for rejection of the application in writing.

(d) After the filing of an administratively complete application, an administrative conference may be conducted to seek resolution of any substantive, non-resolvable technical issues. The conference shall be conducted with the pipeline review committee, which shall consist of the city engineer, fire marshal, administrator, inspector, director of planning and development services and, if necessary, a third-party technical advisor. The costs associated with the technical advisor shall be borne by the pipeline operator. A quorum of at least three members must be present, and at least one of the members present at the conference must have emergency management expertise in order to conduct a conference. Any decision by the pipeline review committee is final.

(e) If the pipeline review committee determines that the city should obtain an independent study or analysis of an application to construct a new pipeline, upon approval by the city council, the city shall engage duly qualified independent consultant(s) or contractor(s) to conduct such special studies or analyses as required to fully evaluate and act upon an application for a new pipeline. The actual cost for said consultant or contractor, including the cost of any inspections deemed necessary by the pipeline review committee or otherwise required by this division, shall be paid by the pipeline operator, and may be billed directly to the pipeline operator's fund balance established pursuant to this subdivision.

(f) Following completion of the review process described herein, the administrator shall either issue the regulated pipeline permit, or deny the application. If the application is rejected, the administrator shall provide the reasons for rejection of the application in writing.

(g) Any change in service of a pipeline not previously addressed by this subdivision to gas, hazardous liquid or chemical service as a regulated pipeline must be reviewed in accordance with the new pipeline review procedure outlined herein, as if it were a new regulated pipeline.

(h) If construction of a regulated pipeline has not commenced within six months of the date of issuance of the regulated pipeline permit, or if the regulated pipeline has not been completed and the surface restored within one year, the regulated pipeline permit shall expire; provided, however, that the director of planning and development services may grant an extension of time not to exceed one year if the director of planning and development services determines that weather or other unexpected physical conditions justify such an extension. If the regulated pipeline permit expires as provided herein, and construction of the subject pipeline has commenced but has not yet been completed, the pipeline operator shall immediately cease construction but shall complete any site remediation required by this subdivision or other applicable law, regulation or ordinance.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-269. Public education.

(a) In keeping with the Natural Gas Pipeline Safety Act of 1968 and 49 CFR 192.614, “Damage Prevention Program,” 49 CFR 192.615, “Emergency Plans,” the Hazardous Liquids Safety Act of 1979, and 49 CFR 195.408, “Communications,” 49 CFR 195.440, “Public Awareness,” and the Community Right-to-Know Act, 40 CFR Parts 350-374:

(1) Each pipeline operator subject to this subdivision shall maintain a public education program, and, as part of such program, shall communicate at least annually, in both English and Spanish, the information specified in this Section to the occupants of habitable structures within 1,000 feet of the centerline of a regulated pipeline.

(2) Pipeline information communicated pursuant to subsection (a)(1) above of this Section shall address the following subjects:

- a. Pipeline location; and
- b. Material transported within the pipeline; and
- c. Pipeline markers; and
- d. How to recognize a pipeline; and
- e. How to report a pipeline emergency; and
- f. Contact information regarding underground utility locations; and
- g. Additional requirements for excavations near a home or business; and
- h. Response needs during a pipeline emergency including instructions for sheltering in the event of an emergency.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-270. Pipeline information reporting requirements.

(a) Each pipeline operator subject to this subdivision shall provide to the inspector, the fire marshal and the police chief the names, mailing addresses and telephone numbers of at least two

primary persons, officers or contacts available on a 24-hour basis and at least two alternative persons, officers or contacts to be reached in the event the primary contacts are unavailable who:

- (1) Can initiate appropriate actions to respond to an emergency; and
- (2) Have access to information on the location of the closest shutoff valve to any specific point in the city; and
- (3) Can furnish the common name of the material then being carried by the pipeline.

Any change in the above-referenced contact information must be provided to the city by contacting the inspector prior to such change.

(b) Every pipeline operator subject to this subdivision shall be required to present to the city a safety report and file with the city an annual verified safety report in letter form on or before June 30 of each year to cover a reporting period of June 1 through May 31. Said written safety report shall contain the following information:

- (1) A statement that the pipeline has no outstanding safety violations as determined in an inspection or audit by either the railroad commission and/or the U.S. Department of Transportation with regard to any pipeline operating within the city. Alternatively, if there are any safety violations as determined by the railroad commission and/or the U.S. Department of Transportation that have not been corrected, these shall be described to the city with an action plan to correct the safety violations. Said action plan shall include a timeline for corrective action and the individual or firm responsible for each action; and
- (2) Evidence that the pipeline operator has current liability insurance as required by this subdivision; and
- (3) A statement that the pipeline information specified in subsection (a) of this Section is correct. Alternatively, in the event that the required information on file with the city is no longer correct, updated or corrected information shall be submitted within five days of the change and the updated information shall be submitted with the annual safety report; and
- (4) If the pipeline operator has no reporting responsibility to the railroad commission or the U.S. Department of Transportation and is otherwise exempt from the safety regulations of either of such agencies, the following documents pertaining to the preceding reporting period of June 1 through May 31:
 - a. Copies of internal reports of responses to pipeline emergencies, as pipeline emergency is defined in this Article; and
 - b. Current operations and maintenance logs; and
 - c. Current emergency action plan.
- (5) A log of all the maintenance and monitoring activities conducted on all lines subject to this division for the reporting period shall be made available upon request by

the city; and

(6) The pipeline operator subject to this subdivision shall submit the annual safety report with respect to all pipelines subject to the ordinances of the city. The safety report and verification shall be executed by an officer or a person who is authorized to sign such safety report letter and make verification. The prescribed form of verification on the safety report letter shall read:

Verification

I, [NAME], the [TITLE] of [PIPELINE OPERATOR], am authorized to make and have made the foregoing annual safety report letter to the city for oil and gas pipelines. Any attachments made to this letter are true and correct copies of originals and the information provided in this letter is true and correct to the best of my knowledge and is information based on the standard of inquiry and investigation as would be made by a reasonably prudent pipeline operator within the city.

Signature of Officer or
Person Authorized to Sign Letter

STATE OF TEXAS

COUNTY OF [Place Where Safety Letter is Prepared]

The foregoing annual safety report letter was sworn to and subscribed before me by (signatory of letter) on this _____ day of _____, 20_____.

Signed:

	____ Notary Public for the State of Texas
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Printed Name:

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My Commission Expires:

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(c) The actual administrative costs incurred by the city in reviewing the annual safety letter shall be billed directly to the pipeline operator's fund balance established pursuant to this subdivision.

(d) Each pipeline operator subject to this subdivision shall file a copy of all initial or follow-up reports provided to the U.S. Department of Transportation or the railroad commission on unsafe pipeline conditions, pipeline emergencies or pipeline incidents within the city concurrently with the city. In addition, such pipeline operator shall file any initial or follow-up reports filed with state and federal environmental regulatory agencies pertaining to pipeline releases within the city concurrently with the city.

(e) Upon written request, each pipeline operator subject to this subdivision shall make available during normal business hours and at the pipeline operator's local office, documents for review that are required for submittal to or to be maintained on file for the U.S. Department of Transportation and the railroad commission, including but not limited to the following:

(1) Operations and maintenance records; and

(2) Employee training records; and

(3) Annual inspection reports; and

(4) Repair records; and

(5) Operating records; and

(6) Insurance records.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-271. Pipeline markers.

(a) In accordance with U.S. Department of Transportation and railroad commission requirements, each pipeline operator subject to this subdivision shall place and maintain permanent line markers as close as practical over the regulated pipeline(s) at each crossing of a public street, utility easement and railroad. Marker(s) shall also be maintained along each regulated pipeline that is located above ground in an area accessible to the public. The markers shall be of permanent type construction and contain labeling identifying the:

(1) Pipeline operator; and

(2) Twenty-four-hour contact telephone number; and

(3) A general description of the product transported in the pipeline; i.e., natural gas, oil, petroleum.

(b) No person shall tamper with, deface, damage or remove any pipeline marker, except the pipeline operator; and

(c) Upon written request of the owner of real property on which a habitable structure is located and through which a regulated pipeline traverses, the pipeline operator shall install temporary pipeline markers or flagging to reduce the possibility of pipeline damage or interference, in accordance with this division.

- (d) The material, design, color, size and content of each line marker shall comply with railroad commission and U.S. Department of Transportation regulations.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-272. One call system.

A pipeline operator that transports gas, oil, liquids or hydrocarbons through a regulated pipeline located in the city shall be a member in good standing with the one call system or other approved excavation monitoring system as required by state law. The pipeline operator that transports gas, oil, liquids or hydrocarbons through a regulated pipeline subject to this subdivision shall contract for service with the selected underground utility coordinating system for a minimum of five years unless there is an agreement to change to an alternate system between the city and the pipeline operator. Said pipeline operator shall maintain such services without interruption for the life of the regulated pipeline permit. The selected underground utility coordinating system may be different than the one used by the city for other underground utility services.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-273. Inactive and idled pipelines.

- (a) The following regulations shall apply to inactive pipelines:

(1) A pipeline operator subject to this subdivision shall maintain and keep current all reporting records specified in this subdivision on all pipelines, regardless of whether such pipelines are inactive or idled; and

(2) A pipeline operator subject to this subdivision shall purge any inactive pipelines of gas, hazardous liquids, and chemicals, and physically isolate such pipeline if such action does not adversely affect the pipeline operator's right of way easement and does not prevent the pipeline operator from maintaining the physical integrity of the pipeline. A pipeline operator subject to this subdivision shall maintain any inactive pipelines to prevent deterioration; and

(3) If a regulated pipeline is physically isolated as provided herein, a pipeline operator subject to this subdivision shall include the means used to physically isolate the inactive pipeline in the information retained on file with the city for reporting as specified in Section 9.5-270.

- (b) The following regulations shall apply to idled pipelines:

(1) If a regulated pipeline is idled, a pipeline operator subject to this subdivision shall make an entry to the required reporting records as required in this subdivision that the pipeline has been idled; and

(2) If a regulated pipeline is idled, a pipeline operator subject to this subdivision shall purge and disconnect such pipeline from all sources or supplies of gas, hazardous liquids and chemicals, and cap or seal such pipeline at the ends; and

(3) Reactivation of idled regulated pipelines shall require notification to the city

pursuant to the standards and requirements specified in this subdivision. Reactivation shall require pressure testing for integrity and compliance with railroad commission and/or U.S. Department of Transportation regulations.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-274. Emergency response plans and emergency incident reporting.

(a) Each pipeline operator subject to this subdivision shall maintain written procedures to minimize the hazards resulting from an emergency. These procedures shall at a minimum provide for the following:

(1) Prompt and effective response to emergencies, including but not limited to the following:

a. Leaks or releases that can impact public health, safety or welfare; and

b. Fire or explosions at or in the vicinity of a pipeline or pipeline easement; and

c. Natural disasters; and

(2) Effective means to notify and communicate required and pertinent information to local fire, police and public officials during an emergency; and

(3) The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency; and

(4) Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment; and

(5) Emergency shut down and pressure reduction of a pipeline; and

(6) The safe restoration of service following an emergency or incident; and

(7) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.

(b) Each pipeline operator subject to this subdivision shall meet annually with the inspector and fire marshal to review emergency response plans. These reviews shall be in accord with U.S. Department of Transportation and railroad commission requirements and the pipeline operator will do the following:

(1) Furnish or update a copy of the emergency response plan described in subsection (a) of this Section; and

(2) Review the responsibilities of each governmental organization in response to an emergency or incident; and

(3) Review the capabilities of the pipeline operator to respond to an emergency or

incident; and

(4) Identify the types of emergencies or incidents that will result in or require contacting the city; and

(5) Plan mutual activities that the city and the pipeline operator can engage in to minimize risks associated with pipeline operation; and

(6) The city shall provide the pipeline operator with a list of additional contacts that shall be made in the event of a pipeline emergency or incident. The city will inform the pipeline operator of the emergency response groups that will be contacted through 911.

(c) Upon discovery of a pipeline emergency or incident, any affected pipeline operator subject to this subdivision shall as soon as practical communicate to the city the following information:

(1) A general description of the emergency or incident; and

(2) The location of the emergency or incident; and

(3) The name and telephone number of the person reporting the emergency or incident; and

(4) The name of the pipeline operator; and

(5) Whether or not any hazardous material is involved and identification of the hazardous material so involved; and

(6) Any other information as requested by the emergency dispatcher or other such official at the time of reporting the emergency or incident.

(d) Upon discovery of a pipeline emergency or incident, a pipeline operator subject to this subdivision shall contact any other emergency response groups that are necessary that may not be activated through the county 911 system.

(e) Upon discovery of a pipeline emergency or incident, a pipeline operator subject to this subdivision shall contact the Southlake fire services immediately after the discovery of any pipeline emergency.

(f) Notwithstanding any provision in this division, each pipeline operator subject to this subdivision shall equip and maintain any pipeline containing natural gas which contains hydrogen sulfide in concentrations of more than 100 parts per 1,000,000,000 with an audible alarm system that will provide an alarm to the general public in the event of a leak from any pipeline, gathering or flow line subject to this division. Said audible alarm system shall be of a type and design approved by the city.

(g) Within two years of the effective date of the pipeline permit and every two years thereafter, each pipeline operator subject to this subdivision shall conduct an on-site emergency drill that includes, but shall not be limited to, the personnel operating the pipeline, local law

enforcement personnel and officials of the city.

(h) Notwithstanding the foregoing, a pipeline operator subject to this subdivision shall report all incidents involving well safety or integrity that do not rise to the level of a pipeline emergency to the city by completing an incident report on forms prepared by the city. Incident reports must be filed by the pipeline operator within 24 hours of discovering the incident. (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-275. Pipeline repairs and maintenance.

(a) All repairs and maintenance of regulated pipelines are to be performed in accordance with U.S. Department of Transportation and railroad commission mechanical integrity requirements.

(b) If non-emergency repairs necessitate excavation of a regulated pipeline, the pipeline operator shall send notification to occupants of business establishments and residential dwellings located within 500 feet from the centerline of the pipeline to be excavated at least five days prior to commencing such repairs.

(c) If above-ground non-emergency repairs that are not routine maintenance are required, the pipeline operator shall send notification to occupants of businesses and residential dwellings located within 500 feet from the centerline of the pipeline section to be repaired at least five days prior to commencing such repairs.

(d) The notice required in subsections (b) and (c) of this Section shall be sent by U.S. regular mail, postage prepaid mailed at least five days prior to commencing any non-emergency repair; provided, however, that the pipeline operator may use hand delivery notice as an alternative, at the pipeline operator's discretion.

(e) Inspection of the interior of all regulated pipelines shall comply with U.S. Department of Transportation and railroad commission rules. (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-276. No assumption of responsibility by city.

Nothing in this subdivision shall be construed as an assumption by the city of any responsibility of a pipeline operator of a regulated pipeline not owned by the city, and no city officer, employee or agent shall have authority to relieve a pipeline operator from their responsibility under this subdivision or by any other law, ordinance or resolution. (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-277. Protection and painting of structures.

A pipeline operator subject to this subdivision shall keep protected and painted all pipeline risers and all appurtenances related to regulated pipeline construction and operations which are composed of materials which are generally protected or painted. Such operator shall repaint all such items at sufficiently frequent intervals to maintain same in good condition. It shall be a violation of this Article for any pipeline operator subject to this subdivision to permit

any pipeline riser and/or appurtenances related to pipeline construction and operations to be in a state of disrepair or to have chipped, peeling or unpainted portions thereof.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-278. No implied grant of easement for street and right of way use.

(a) In the event a regulated pipeline is placed within any public right of way under the jurisdiction of the city, the pipeline operator shall comply with the right of way use regulations as provided in this Code. Nothing in this subdivision grants permission for the use of any street, right of way or property of the city, and any such use shall be subject to the city at its sole discretion.

(b) To the extent that the provisions of this subdivision conflict with the city's right of way use ordinance, this subdivision shall control.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-279. Violations.

(a) Any pipeline operator subject to this subdivision, who shall have failed to comply with this division, shall be deemed to be maintaining a nuisance and the city may take such measures to remedy such nuisance, including but not limited to revocation of the pipeline operator's pipeline permit.

(b) It shall be a violation of this subdivision for a person to knowingly make a misrepresentation of any information to be reported pursuant to this division. It shall also be a violation of this subdivision if the person makes such misrepresentation as a result of failure to exercise such due diligence of investigation or inquiry, as would a reasonably prudent pipeline operator conducting business in the jurisdiction of the city.

(c) Each violation of any section, subsection or part of this subdivision shall be a separate offense. Each day of ongoing violation shall be a separate offense, and shall carry with it a fine of not less than \$1,000.00 per day and not more than \$2,000.00 per day. If fines are not paid within 30 days of issuance, the well permit may be suspended or revoked by the city.

(d) The city shall be entitled to injunctive relief or any other appropriate relief in a court of appropriate jurisdiction to prevent violation of or to compel compliance with this subdivision.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-280. Bond and insurance required.

(a) In the event that a pipeline permit is issued for a regulated pipeline or other operations under this subdivision, no actual operation shall be commenced until the pipeline operator files with the city secretary a bond and a certificate of insurance as follows:

(1) No person shall begin the construction or operation of any regulated pipeline until such person has obtained a valid permit and filed with the city secretary a duly executed bond executed by the pipeline operator as principal with an A.M. Best "A" rated surety company that is acceptable to the city and is licensed to conduct business in the state as surety, payable to the city and the policy shall name the city as an additional insured and

such surety company shall maintain an A.M. Best “A” rating for the policy period. Said bond shall include conditions that the pipeline operator, its heirs, assigns and successors will do the following:

- a. Comply with the terms and conditions of the application and this subdivision in the construction, operation and maintenance of the pipeline and related structure(s); and
- b. Restore all streets and sidewalks and all other public places and all public utilities that may be injured or damaged in the operation to their former condition; and
- c. Remove all litter, machinery, buildings, trash and waste used, accumulated or allowed in the construction of any pipeline within ten days of the completion of said construction; and
- d. Remove all litter, machinery, buildings, trash and waste used, accumulated or allowed in the operation of any pipeline within ten days of the completion of said operations.

(2) Such bond shall be in the sum of \$1,000,000.00 and before the pipeline permit shall be issued, the bond must be approved by the city and filed with the city secretary. Such bond shall become effective upon the granting of the pipeline permit and shall remain in full force and effect until all work under the terms of such pipeline permit has been completed. Such bond may later be amended to include other pipelines, under provisions of other applications or other permits.

(3) In addition to the bond required in subsection (a)(1) above of this Section, each person desiring to construct a regulated pipeline or to conduct any other work under the provisions of this subdivision shall be required to carry public liability insurance with a carrier rated “A” or better by A.M. Best in a minimum amount of \$1,000,000.00 for one person and \$5,000,000.00 for one accident and property damage insurance in the amount of \$10,000,000.00 for one accident, which shall remain in full force and effect and be carried so long as such pipeline is operated. A certificate of insurance shall be furnished annually by the permittee or the subsequent pipeline operator showing that such insurance is and continues in effect.

(4) Each pipeline operator subject to this subdivision shall provide and maintain in full force and effect during the term of its permit insurance with the following minimum limits:

- a. Worker’s compensation at statutory limits; and
- b. Employer’s liability, including bodily injury by accident and by disease, for \$500,000.00 combined single limit per occurrence and a 12-month aggregate policy limit of \$1,000,000.00; and
- c. Commercial general liability coverage, including blanket contractual liability, products and completed operations, personal injury, bodily injury, broad

form property damage, operations hazard, pollution, explosion, collapse and underground hazards for \$5,000,000.00 per occurrence and a 12-month aggregate policy limit of \$10,000,000.00; and

d. Automobile liability insurance (for automobiles used by the pipeline operator in the course of its performance under the pipeline permit, including employer's non-ownership and hired auto coverage) for \$2,000,000.00 combined single limit per occurrence.

(b) The city may adjust the above minimum liability limits every five years during the term of the pipeline permit, or sooner as determined by city council, to compensate for the effects of inflation and with the objective to reestablish the value of coverage required as of the effective date of this division.

(c) Each policy or an endorsement thereto, except those for worker's compensation and employer's liability, shall name the city and its officers, officials, employees, successors and assigns as additional insured parties, but limited to risks indemnified pursuant to this division. If any such policy is written as "claims made" coverage and the city is required to be carried as an additional insured, then the pipeline operator subject to this subdivision shall purchase policy period extensions so as to provide coverage to the city for a period of at least two years after the last date that the pipeline permit is in effect. No deductible shall exceed ten percent of the minimum limits of liability or one percent of the consolidated net worth of such pipeline operator and its permitted affiliates, whichever is greater.

(d) Each pipeline operator subject to this subdivision shall assume and bear any claims or losses to the extent of deductible amounts and waives any claim it may ever have for the same against the city and its officers, officials, employees, successors and assigns in respect of any covered event.

(e) All such policies and certificates shall contain an agreement that the insurer shall notify the city in writing not less than 30 days before any material change, reduction in coverage or cancellation of any policy. Each pipeline operator subject to this subdivision shall give written notice to the city within five days of the date upon which total claims by any party against such pipeline operator reduce the aggregate amount of coverage below the amounts required by the regulated pipeline permit.

(f) Each policy must contain an endorsement to the effect that the insurer waives any claim or right in the nature of subrogation to recover against the city, its officers, officials, employees, successors and assigns.

(g) Each policy must contain an endorsement that such policy is primary insurance to any other insurance available to the city as an additional insured with respect to claims arising thereunder.

(h) The city council may modify the requirements of this Section, as it deems appropriate, in order to account for the risk and possible threat to the public health, safety and general welfare posed by the operation of pipelines within the city.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-281. Termination of permit.

Any violation of the provisions of any or all Sections of this subdivision shall be grounds for the termination of any regulated pipeline permit. The termination of any regulated pipeline permit shall require the immediate cessation of all operations subject to such pipeline permit and shall require the pipeline operator subject to this subdivision to reapply for a new pipeline permit in full accordance with the provisions of this subdivision.
(Ord. No. 880-A, § 2, 5-20-08)

Secs. 9.5-282--9.5-285. Reserved.

Subdivision C.

Unregulated Pipelines

Sec. 9.5-286. General requirements and minimum design standards.

- (a) The provisions of this subdivision shall govern all unregulated pipelines as defined in this Article.
- (b) The following requirements shall apply to all unregulated pipelines:
 - (1) No unregulated pipeline for the transportation of gas, oil or hydrocarbons from wells to be drilled shall be constructed or laid except on rights of way or easements owned by the owners or operators of wells or third party pipeline companies, or upon designated drilling tracts and upon rights of way or easements necessary to connect future wells to present lines; and
 - (2) In order to install, construct, maintain, repair, replace, modify, remove or operate an unregulated pipeline, the pipeline operator must first obtain from the city an easement on, over, under, along or across the city streets, sidewalks, alleys and other city property. Such easement shall continue for so long as pipeline operations continue under any unregulated pipeline permit.
- (c) The pipeline operator of any unregulated pipeline shall do the following:
 - (1) Not interfere with or damage existing utilities including but not limited to: water, sewer or gas lines, storm drains, electric lines or the facilities of public utilities located on, under or across the course of such right of way; and
 - (2) Grade, level and restore the affected property to the same surface condition, as nearly practicable, as existed before operations were first commenced; and
 - (3) Upon completion of pipeline construction, the pipeline operator shall provide the city with as-built or record drawings of the pipelines within 60 days. Accuracy of the record drawings shall meet a survey level of one foot to 50,000 feet. The scale of the record drawings shall be a minimum of one inch to 40 feet. The drawings shall also be supplied in a DFF digital file format with the location tied to at least one nearby GPS

(global positioning system) city monument. If the new pipeline length exceeds 1,000 feet within the city, the pipeline shall be tied to at least two GPS city monuments.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-287. Unregulated pipeline permit application requirements.

(a) At least 45 days prior to the scheduled commencement of the installation, construction, reconstruction, reworking, modification, replacement or operation of a new unregulated pipeline, the pipeline operator shall submit an application and pay a fee in the amount set in the city's fee schedule for an unregulated pipeline permit to the city.

(b) An unregulated pipeline permit application shall meet the following requirements:

(1) Any applications for a new unregulated pipeline or other activities regulated by this subdivision shall be submitted to the city on a form prescribed by the city; and

(2) Each pre-submittal application for an unregulated pipeline permit shall be accompanied by ten 11x17 paper sets and one pdf electronic set of plans showing the dimensions and locations of the unregulated pipeline and related items or facilities within the subject right of way or easement, as well as all proposed lift stations, pumps or other service structures related to such pipeline and the location, type and size of all existing utilities, drainage, right of way and roadway improvements. The plans must additionally show the elevation and location of all known public utilities within 15 feet of the centerline of the proposed pipeline. Any application that fails to meet these requirements will be returned as incomplete to the applicant; and

(3) Within 30 days after the date of filing of said application and plans, the administrator shall send notice to the pipeline operator as to whether the application will be accepted for formal submittal processing and the total charge due. A formal submittal application for an unregulated pipeline permit shall be accompanied by two full-size paper sets, one 11x17 paper set and one pdf electronic set showing all of the items described in subsection (b)(2) above. Any application that is returned as incomplete, the administrator shall provide notice to the pipeline operator of the deficiencies.

(c) The following information shall be provided in the application for an unregulated pipeline permit:

(1) The name, business addresses and telephone numbers of the pipeline operator; and

(2) The names, titles and telephone numbers of the following:

a. The person signing the application on behalf of the pipeline operator; and

b. The person designated as the principal contact for the submittal; and

c. The person designated as the 24-hour emergency contact; and

(3) The origin point and the destination of the proposed subject pipeline; and

- (4) A text description of the general location of the proposed subject pipeline; and
 - (5) A description of the substance to be transported through the proposed subject pipeline; and
 - (6) A copy of the substance material safety data sheet (MSDS); and
 - (7) The maximum allowable operating pressure on the proposed subject pipeline, along with the specified minimum yield strength (SMYS) of the pipe, its pressure class and design calculations in accordance with 49 CFR 192.105, assuming a class 3 or better location; and
 - (8) The normal operating pressure range of the proposed subject pipeline; and
 - (9) Engineering plans, drawings and/or maps with summarized specifications showing the horizontal location, covering depths, and location of shutoff valves of the proposed subject pipeline. (The location of shutoff valves must be known in order for emergency responders to clear area for access valves.) To the extent that information can be obtained, drawings shall show the location of other pipelines and utilities that will be crossed or paralleled within 15 feet of the proposed subject pipeline right of way; and
 - (10) Detailed cross section drawings for all public street right of way and easement crossings; and
 - (11) A proposed alignment strip map showing name and address of all affected property owners; and
 - (12) A site plan showing the location of such pipeline.
- (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-288. Permit approval process and procedures.

If the administrator determines that the unregulated pipeline permit application is administratively complete, then the administrator shall issue the unregulated pipeline permit.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-289. Pipeline information reporting requirements.

- (a) Each pipeline operator subject to this subdivision shall provide to the inspector, the fire marshal and the police chief the names, mailing addresses and telephone numbers of at least two primary persons, officers or contacts available on a 24-hour basis and at least two alternative persons, officers or contacts to be reached in the event that the primary contacts are unavailable who:
 - (1) Can initiate appropriate actions to respond to an emergency; and
 - (2) Have access to information on the location of the closest shutoff valve to any specific point in the city; and

- (3) Can furnish the common name of the material then being carried by the pipeline.

Any change in the above information must be provided to the city by contacting the inspector prior to such change.

(b) Each pipeline operator subject to this subdivision shall file a copy of all initial or follow-up reports provided to the U.S. Department of Transportation or the railroad commission on unsafe pipeline conditions, pipeline emergencies or pipeline incidents within the city concurrently with the city. In addition, such pipeline operator shall file any initial or follow-up reports filed with state and federal environmental regulatory agencies pertaining to pipeline releases within the city concurrently with the city.

(c) Upon written request, each pipeline operator subject to this subdivision shall make available during normal business hours and at the pipeline operator's local office, documents for review that are required for submittal to or to be maintained on file for the U.S. Department of Transportation and the railroad commission, including but not limited to the following:

- (1) Operations and maintenance records; and
- (2) Employee training records; and
- (3) Annual inspection reports; and
- (4) Repair records; and
- (5) Operating records; and
- (6) Insurance records.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-290. No assumption of responsibility by city.

Nothing in this subdivision shall be construed as an assumption by the city of any responsibility of a pipeline operator of an unregulated pipeline not owned by the city, and no city officer, employee or agent shall have authority to relieve a pipeline operator from their responsibility under this subdivision or by any other law, ordinance or resolution.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-291. No implied grant of easement for street and right of way use.

(a) In the event an unregulated pipeline is placed within any public right of way under the jurisdiction of the city, the pipeline operator shall comply with the right of way use regulations as provided in this Code. Nothing in this subdivision grants permission for the use of any street, way or property of the city, and any such use shall be subject to the city at its sole discretion.

(b) To the extent that the provisions of this subdivision conflict with the city's right of way use ordinance, this subdivision shall control.

(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-292. Violations.

- (a) Any pipeline operator subject to this subdivision, who shall have failed to comply with this division, shall be deemed to be maintaining a nuisance and the city may take such measures to remedy such nuisance, including but not limited to revocation of the pipeline operator's pipeline permit.
- (b) It shall be a violation of this subdivision for a person to knowingly make a misrepresentation of any information to be reported pursuant to this division. It shall also be a violation of this subdivision if the person makes such misrepresentation as a result of failure to exercise such due diligence of investigation or inquiry, as would a reasonably prudent pipeline operator conducting business in the jurisdiction of the city.
- (c) The city shall be entitled to injunctive relief or any other appropriate relief in a court of appropriate jurisdiction to prevent violation of or to compel compliance with this subdivision. (Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-293. Location of unregulated pipelines.

- (a) A pipeline operator of an unregulated pipeline shall comply with the conditions established in this Section governing mapping, inventorying, locating or relocating of unregulated pipelines within private residential areas within the boundaries of the municipality.
- (b) All new or relocated unregulated pipelines within private residential areas shall be located within existing pipeline corridors within the city, unless the pipeline operator of the unregulated pipeline is able to demonstrate to the city council, pursuant to a variance request under Section 9.5-223, hereof, that such alignment is infeasible. In addition to the criteria set forth in Section 9.5-223, the city council shall consider the following criteria when determining the feasibility of locating the new or relocated unregulated pipeline in established pipeline corridors in the city:
 - (1) The availability and cost of established pipeline corridor space; and
 - (2) The availability and cost of right of way to and from the established pipeline corridor; and
 - (3) Technical, environmental, safety, efficiency and cost issues related to building, operating and maintaining both the portion of the unregulated pipeline that would be located in the established pipeline corridor and the lengths of unregulated pipeline required to gain access to and from the established pipeline corridor; and
 - (4) Any delays in right of way acquisition or construction of unregulated pipeline that may result from routing through an established pipeline corridor; and
 - (5) The availability of an alternative right of way to the pipeline operator.
- (c) Where the city council determines it is not feasible for a new or relocated unregulated pipeline to be located within an established pipeline corridor within private residential areas, the

unregulated pipeline must:

- (1) For platted property, be located within mandatory front, side yard or rear setback areas;
- (2) For un-platted property, be contiguous and adjacent to the property boundaries of fee parcels or existing easements to avoid unnecessary fragmentation of land and avoid diagonal routes that would create unusable slivers of land; and
- (3) Avoid areas of unique recreational or aesthetic importance, environmentally sensitive areas and areas of historical or cultural significance; and
- (4) Avoid conflict with the location and opening of planned future streets and laying of planned water, sanitary sewer and storm sewer lines incident to future private residential area development.

The ultimate location of an unregulated pipeline that is infeasible of being located or relocated within an established pipeline corridor within the city shall be established by the city council during the variance procedure pursuant to Section 9.5-223, taking into account the requirements of this subsection (c).

- (d) The burden of establishing that a pipeline is an unregulated pipeline as defined in this Article shall be on the pipeline operator. If a pipeline operator asserts that a pipeline is an unregulated pipeline as defined in this Article, the pipeline operator shall file a notice so providing with the administrator with the permit application required by this Article, accompanied by facts and documentation sufficient to establish such status. The administrator shall review such notice and documentation and, with the assistance of the city attorney, shall determine whether such pipeline is an unregulated pipeline as defined in this Article. If the administrator determines that such pipeline is a regulated pipeline, as opposed to an unregulated pipeline, it shall be so treated; provided, however, that the pipeline operator may appeal such determination as provided in this Article.
(Ord. No. 880-A, § 2, 5-20-08)

Sections 9.5-294--9.5-297. Reserved.

Subdivision D.

Regulations Regarding Conduct of Third Parties

Sec. 9.5-298. Subdivision of property burdened by pipeline.

- (a) When one or more residential lots in a proposed subdivision are crossed or come by or come within 100 feet of any existing oil or gas pipeline or pipeline easement, the subdivider shall, prior to and as a condition of city approval of the subdivision, execute the following waiver and hold harmless agreement, which shall be duly acknowledged in the manner provided by law, and which shall thereafter be recorded in the appropriate deed or other permanent county records:

“[Subdivider Name], by and through its duly undersigned and authorized officer, does

hereby state that it fully realizes that it is applying for a permit from the City of Southlake to build within 100 feet of an existing oil or gas pipeline or pipeline easement, and that the City of Southlake considers building near such pipeline or pipeline easement to have certain inherent dangers, including but not limited to explosion and release of noxious, toxic and flammable substances. For the aforementioned reasons [Subdivider Name] hereby RELEASES and agrees to forever HOLD HARMLESS the City of Southlake, Texas, its officers, officials, employees, successors and assigns from all liability in any way arising from the building, use or habitation of [structure described in the said permit].”

(b) In all cases in which one or more residential lots in a proposed subdivision are crossed or come by or come within 100 feet of any existing oil or gas pipeline or pipeline easement, the subdivider shall provide a note on the face of the development plan and record plat stating that the subdivision is crossed or is located within 100 feet of an existing oil or gas pipeline, and indicate the location of such pipeline on the face of the development plan and record plat.
(Ord. No. 880-A, § 2, 5-20-08)

Sec. 9.5-299. Waiver/hold harmless agreement required for issuance of building permit.

(a) Any person, firm or corporation wishing to obtain a building permit for the erection, construction, reconstruction or expansion of any structure, of which any portion of such erection, construction, reconstruction or expansion would occur within 100 feet of an existing oil or gas pipeline or pipeline easement shall, prior to and as a condition of the issuance of such building permit, execute the following waiver and hold harmless agreement, which shall be duly acknowledged in the manner provided by law and which shall thereafter be notarized and recorded in the appropriate deed or other permanent county records:

“I, [Applicant’s Name], do hereby state, on my oath, that I fully realize I am applying for a permit from the City of Southlake to build within 100 feet of an existing oil or gas pipeline easement; that I am fully aware of the dangers inherent in building near such pipeline or easement, including but not limited to explosion and release of noxious, toxic and flammable substances; and, further, that I do hereby RELEASE and agree to forever HOLD HARMLESS the City of Southlake, Texas, its officers, officials, employees, successors and assigns from all liability in any way arising from the building, use or habitation of the structure described in the said permit.”

(b) Prior to beginning any excavation, trenching or digging using powered equipment or hand tools that may damage a pipeline, any person within the city shall be required to contact the one call system and any other appropriate underground utility coordinating systems and determine if there are any pipelines or public utilities in the vicinity of the proposed activities.

(c) If physical contact is made with a pipeline during any excavation, trenching or digging, the pipeline operator must be notified by the person or agency making the physical contact with the pipeline for any necessary pipeline inspection or repair.
(Ord. No. 880-A, § 2, 5-20-08)