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JUL 13 1984

GENERAL LAND OFFICE

Malcolm L. Clark, Mayor

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T. L. Hammond  
Geraldine Hunt  
Willie Lewis, Jr.  
Charles L. Rhodes, Jr.  
George Dibrell  
City Manager



# CITY of PORT ARTHUR

P. O. BOX 1089 • PORT ARTHUR, TEXAS 77640 • AREA CODE 409 983-3321

July 11, 1984

Herman Forbes  
General Land Office  
Stephen F. Austin Building  
Austin, Texas 78701

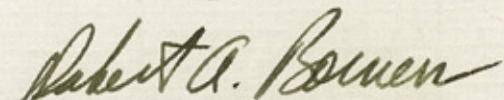
Subject: City Limits in Lake Sabine  
and Gulf of Mexico

Dear Herman:

Pursuant to your request today, enclosed are two maps that indicate Port Arthur City Limits in Lake Sabine and the Gulf of Mexico. We understand the Land Commission requested this information which relates to planned State land leases.

May we offer this brief explanation of the data on Map A. The City Limit line from Federal Point northerly and easterly to the centerline of Sabine Lake to the intersection with the Jefferson/Orange County line is the same as that described in the State of Texas vs. State of Louisiana, No. 36, Decree, decided May 16, 1977, announced June 14, 1976, 426 U.S. 465. From that point on it follows the Jefferson/Orange County line to the mouth of the Neches River. See page 6 copied from the Decree, copy also enclosed, for these calls. Also provided are copies of our oil/gas well drilling ordinances.

Yours truly,

  
Robert A. Bowers, P.E.  
Director Public Services

RAB/fm

Enclosures as stated.

counter 28273

At the intersection of  
the J.C. Line

	<i>Latitude North</i>	<i>Longitude West</i>	<i>Location</i>
THROUGH	29°54'36.973"	93°49'16.302"	Upper Sabine Lake
THROUGH	29°54'04.585"	93°49'37.656"	Upper Sabine Lake
THROUGH	29°53'32.579"	93°50'03.845"	Upper Sabine Lake
THROUGH	29°52'56.560"	93°50'21.747"	Upper Sabine Lake
THROUGH	29°52'39.770"	93°50'35.039"	Upper Sabine Lake
→ THROUGH	29°52'25.145"	93°51'09.699"	Middle of Sabine Lake
THROUGH	29°51'50.473"	93°52'07.103"	Lower Sabine Lake
THROUGH	29°51'32.542"	93°52'28.004"	Lower Sabine Lake
THROUGH	29°51'15.878"	93°52'57.568"	Lower Sabine Lake
THROUGH	29°51'05.200"	93°53'19.673"	Lower Sabine Lake
THROUGH	29°50'54.303"	93°53'35.182"	Lower Sabine Lake
THROUGH	29°50'18.169"	93°54'20.311"	Lower Sabine Lake
THROUGH	29°49'49.772"	93°54'49.448"	Lower Sabine Lake
THROUGH	29°49'44.849"	93°54'58.065"	Lower Sabine Lake
THROUGH	29°49'37.618"	93°55'05.771"	Lower Sabine Lake
THROUGH	29°49'20.303"	93°55'20.142"	Lower Sabine Lake
THROUGH	29°48'42.959"	93°55'35.809"	Lower Sabine Lake
THROUGH	29°48'18.451"	93°55'40.759"	Lower Sabine Lake
THROUGH	29°47'36.545"	93°55'39.194"	Lower Sabine Lake
THROUGH	29°47'15.758"	93°55'30.254"	Lower Sabine Lake
THROUGH	29°47'05.436"	93°55'18.919"	Lower Sabine Lake
THROUGH	29°46'58.740"	93°55'01.889"	Lower Sabine Lake
THROUGH	29°46'48.210"	93°54'46.996"	Lower Sabine Lake
THROUGH	29°46'36.049"	93°54'25.832"	Lower Sabine Lake
THROUGH	29°46'28.073"	93°54'13.425"	Lower Sabine Lake
THROUGH	29°46'18.585"	93°53'57.291"	Lower Sabine Lake
THROUGH	29°46'06.942"	93°53'45.018"	Sabine Pass
THROUGH	29°45'54.345"	93°53'30.849"	Sabine Pass
THROUGH	29°45'49.978"	93°53'28.808"	Sabine Pass
THROUGH	29°45'38.577"	93°53'26.928"	Sabine Pass
THROUGH	29°45'18.638"	93°53'33.851"	Sabine Pass
THROUGH	29°45'05.648"	93°53'32.213"	Sabine Pass
THROUGH	29°44'54.133"	93°53'31.124"	Sabine Pass
THROUGH	29°44'43.478"	93°53'28.071"	Sabine Pass
THROUGH	29°44'35.209"	93°53'18.953"	Sabine Pass
THROUGH	29°44'31.543"	93°53'11.427"	Sabine Pass
THROUGH	29°44'27.961"	93°53'02.088"	Sabine Pass
THROUGH	29°44'22.581"	93°52'40.847"	Sabine Pass
THROUGH	29°44'11.018"	93°52'03.826"	Sabine Pass
THROUGH	29°44'04.304"	93°51'54.092"	Sabine Pass
THROUGH	29°43'54.534"	93°51'48.229"	Sabine Pass
THROUGH	29°43'37.354"	93°51'40.499"	Sabine Pass
THROUGH	29°43'32.000"	93°51'35.690"	Sabine Pass
THROUGH	29°43'16.198"	93°51'23.209"	Sabine Pass
THROUGH	29°43'07.451"	93°51'24.917"	Sabine Pass
THROUGH	29°42'58.535"	93°51'25.146"	Sabine Pass
THROUGH	29°42'52.596"	93°51'22.444"	Sabine Pass ✓
THROUGH	29°42'37.071"	93°51'08.441"	Sabine Pass
THROUGH	29°42'25.303"	93°51'02.416"	Sabine Pass
THROUGH	29°42'17.991"	93°50'56.448"	Sabine Pass
THROUGH	29°42'11.305"	93°50'52.934"	Sabine Pass
THROUGH	29°41'57.311"	93°50'47.841"	Head of Jetties
THROUGH	29°41'15.323"	93°50'11.722"	Jetties
TO	29°38'37.329"	93°49'30.940"	End of Jetties

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CODE OF ORDINANCES GENERAL LAND OFFICE

CITY OF

Port Arthur, Texas

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CHARTER

and

GENERAL ORDINANCES OF THE CITY

VOL. II

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ADOPTED, AUGUST 30, 1961

EFFECTIVE, OCTOBER 1, 1961

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PUBLISHED BY ORDER OF THE CITY COMMISSION

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MUNICIPAL CODE CORPORATION

Tallahassee, Florida

1961

counter 28275

Chapter 15

OIL AND GAS\*

- Art. I. In General, §§ 15-1—15-30  
Art. II. Pipelines, §§ 15-31—15-50  
Art. III. Sabine Lake Drilling, §§ 15-51—15-93  
Art. IV. Offshore Drilling, §§ 15-94—15-123

ARTICLE I. IN GENERAL

Sec. 15-1. Title.

The title of this chapter and the name by which it shall be known is the "Port Arthur Oil and Gas Ordinance". (Ord. No. 2566, § 1, 1-20-60)

Sec. 15-2. Purpose and intent.

The city council finds that there has been and there is a likelihood of additional drilling and production operations for oil and gas within the corporate limits of the city requiring that operations for the drilling and production of oil and gas within such area be regulated because of the fire hazards created by such operations, as well as the menace of falling derricks, exploding boilers, unsanitary conditions, contaminated water supply and all similar and like threats to the lives, property, health, safety and convenience of the public in general, for which the police power of the state delegated to this city, is to be and is hereby invoked in aid of the enforcement of this chapter. (Ord. No. 2566, § 2, 1-20-60)

Sec. 15-3. Definitions.

For the purpose of this chapter, and for all purposes under this chapter, the following words and terms wherever and whenever used or appearing in this chapter shall have the

\*Editor's note—Ord. No. 25-66, §§ 1—20, enacted the provisions codified as §§ 15-1—15-20. Since such ordinance did not expressly amend this Code, the manner of codification has been in the editor's discretion.

scope and meaning hereinafter defined and set out in connection with each:

*Permittee.* The person to whom is issued a permit for the drilling and operation of a well under this chapter, and his or its administrators, executors, heirs, successors and assigns.

*Regulated area.* All areas within the corporate limits of the city, specifically excluding those areas covered by Article III or Article IV of this chapter.

*Well.* Any hole, excavation or bore made downward from the surface to extend two hundred (200) feet or more into the subsurface by any means or manner for the purpose of exploring for, discovering, producing, injecting or reinjecting oil, gas or other minerals, including, without limitation, sulphur, salt, any form of hydrocarbon, distillate, waste, and fresh or salt water.

All technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have the meaning customarily attributable thereto by prudent operators in the oil and gas industry. (Ord. No. 2566, § 3, 1-20-60; Ord. No. 81-99, § 1, 12-14-81; Ord. No. 82-52, § 1, 8-16-82)

**Sec. 15-4. Well spacing; permits required.**

(a) Reserved.

(b) Not more than one well shall be permitted to be drilled, completed and operated in each drilling unit as shown and designated by subsection (a), and it shall be unlawful and in violation of this chapter to drill, complete and operate more than one well in each drilling unit; provided, however, in the event there is a well or wells now located, or hereafter drilled under a city permit or permits issued and now in full force and effect on the effective date of this chapter on such a drilling unit, or an application for a city permit to drill is filed subsequent to this chapter's effective date, which is made by an applicant who has made application to the state railroad commission for a state permit prior to the effective date of this chapter, then each of the aforesaid persons shall be entitled to drill in said drilling unit in addition to one additional well which may be drilled pursuant to the pro-Supp. No. 14

visions hereof, and the drilling unit for such additional well for all purposes hereunder shall be all of the lands within the drilling unit hereby created which are not covered by the lease, or a unit formed under lease or unitization agreements on which such existing well or wells are located or are to be hereafter drilled under such city permit or permits now in full force and effect, or on which application to the railroad commission has been made as heretofore provided. The provisions of this section shall not prevent a well from being completed in more than one producing horizon; multiple completions in the same well bore are expressly authorized. A substitute well may be drilled, completed and operated in each drilling unit without obtaining a new permit in the event the prior existing well drilled thereon shall be abandoned, but any necessary additional consent agreements shall be obtained in order to comply with the provisions of section 15-7 hereof.

(c) In the event an application for a permit for the drilling, completion and operation of a well shall be made by any person not owning or holding leases of oil or gas rights, or drilling contracts from the owners of all lots, blocks or parcels of land included in or embraced within a drilling unit designated in subsection (a), a permit shall be issued to such applicant, his heirs, successors and assigns, only upon the following conditions, in addition to such other conditions as may be provided for in other sections of this chapter, to-wit: The applicant shall be free to enter into such contracts, and agreements with the owners of such other lots, blocks or tracts as he may be able to make. If agreements are not reached with all owners of minerals underlying lots, blocks and tracts within the drilling unit that are not subject to existing oil and gas leases or equivalent contracts, then such owner or owners of minerals under any such lot or lots, block or blocks, tract or tracts, shall have the right or option, by notice to the permittee given in writing within ten (10) days after the issuance of a permit for a well on the drilling unit involved, either (1) to treat his interest as a working interest and contribute toward the actual cost and expense of drilling, completing and operating said well with all necessary appurtenances currently each month in the proportion that the number of surface square feet

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in area under which the minerals owned by him in the drilling unit bears to the total number of surface square feet embraced in said unit, and thereupon receive the same proportion of the oil produced and saved from such well equal to one-sixth (1/6) at the option of the owner, and a like proportion of gas produced, saved and utilized or sold, or the value of same at the well, at the option of the owner, or (2) to treat his interest as a royalty interest and receive, delivered free of cost in the pipe line to which the well may be connected, a share of all oil produced and saved from such well equal to one-sixth (1/6) of the proportion of the whole quantity of oil so produced and saved that the number of surface square feet in area under which the minerals owned by him bears to the total number of surface square feet in such drilling unit, or at the election of owner, to receive such proportion of the value at the well of the oil so produced, and to receive a like proportion of the gas produced, saved and utilized or sold, or at the election of owner, the market value at the well of such proportion of gas produced and sold or used off the premises, or, for gas sold at the well, such proportion of the amount realized from such sale. If any owner does not exercise the right and option above provided, and give notice to the permittee within the period above provided, the obligation shall then be upon the permittee, his heirs, successors and assigns, to make settlement with such owner on the terms provided in Option (2) above, providing for the payment of a one-sixth (1/6) royalty. If the owner of a lot or lots, block or blocks, tract or tracts shall exercise Option (1) above and treat his interest as a working interest, as therein provided, the permittee shall be entitled to reimburse himself for such owner's proportionate part of the costs out of such owner's proportionate part of the oil or gas, or the value thereof, before making deliveries of products or settlement for the value thereof. If Option (1) is exercised by the owner of any lot or lots, block or blocks, tract or tracts, such owner shall, within the time provided for notice of his election above set forth, file with the city secretary a bond or other obligation executed by such owner as principal and by an authorized surety company as surety, in which such principal and surety agree, bind and obligate themselves to pay to the permittee, his heirs, successors and

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assigns currently each month that proportion of the actual and necessary costs and expenses involved in the drilling, completion and operation of such well that the number of surface square feet embraced within the lot or lots, block or blocks, tract or tracts under which the minerals are owned by such party bears to the total number of surface square feet in such drilling block, such bond to be approved by the city attorney and held by the city secretary for the benefit of the beneficiaries therein. Permits issued in all such cases shall be subject to the provisions of section 15-8 hereof and shall be upon the condition that the permittee, his heirs, successors and assigns, shall make settlement in accordance with the provisions hereof. In the event an owner exercises the option to receive production in kind, he shall so notify the permittee in writing and furnish facilities or storage tanks therefor before permittee shall be obligated to make delivery in kind to such owner and owner shall bear any risk or expense occasioned by such delivery.

(d) In case there be applications filed with the city secretary and pending at the same time, for permits to drill a well in any one drilling unit as designated in subsection (a) by more than one applicant, that application shall be granted, if otherwise sufficient, which shall be made by the person holding the greater area of the ground within the drilling unit by ownership in fee, or by lease or other contract with the owner or owners, permitting the drilling thereon for oil or gas.

(e) The interests of persons other than the permittee who hold oil or gas leases or equivalent contracts in any drilling unit, as designated in subsection (a), shall be treated as part of the total working interest of said drilling unit, and such other persons holding such interests shall each make the following election with permittee within ten (10) days from the date of the issuance of a permit with respect to a drilling unit: Either (1) agree in writing with permittee to contribute their share of all costs and expenses, properly allocated to said well and drilling unit by permittee in accordance with accepted accounting practice, currently each month in the proportion that the number of surface square feet in area held by them or each of them in the drilling unit bears to the

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total number of surface square feet embraced in said unit; and within said ten (10) day period, execute and file with the city secretary a bond to run in favor of permittee, his heirs, successors and assigns, with an authorized surety company as surety in an amount representing that portion of the estimated maximum cost of the well that the area of ground held under lease or other contract by the principal bears to the whole area of the drilling unit, conditioned that the principal in the bond will pay to the permittee, his successors and his assigns such proportion of the cost of drilling and operating the said well, from time to time, as required in the drilling and operation thereof, such bond to be approved by the city attorney and held by the city secretary for the benefit of all persons interested; and thereupon said persons so acting shall be entitled to participate in the total working interest under said unit; and said persons so acting shall have the right, upon reasonable notice given to the permittee, upon the furnishing of storage tanks or facilities for handling the same, and upon the payment of, or securing the payment of, their share of the royalty interests and any overriding royalty or oil payment interests thereon, to receive in kind their proportionate share of production from the well in said drilling unit and allocated to the working interest of said well. Or, (2), if such other persons, or any of them, fail to elect under (1) above within said ten (10) day period, then he or they shall be deemed to have elected to agree that permittee shall be entitled to reimburse himself currently each month from such other persons' proportionate share of the proceeds of sale or production in kind for twice the amount of such other persons' proportionate part of the costs and expenses as set out in Option (1) above. Provided, however, that permittee and such other persons, or any of them, shall be able to alter the obligations as set out in this section by an agreement made by them in writing; provided such agreement is not repugnant to other rules and regulations set out in this chapter.

(f) The owners of royalty under leases, nonparticipating royalty created prior to the execution of leases, overriding royalties, net profit interests, production payments and similar interests shall participate from the production in any Supp. No. 5

well located on a drilling unit in the proportion that the number of surface square feet in the lot, tract or block affected by such interests or interest bear to the total number of surface square feet in the drilling unit in which such interest or interests are located; provided, however, that permittee, and other lease owner or owners, and the owner or owners of any of the aforementioned interests, or any of them, shall be able to alter the obligations as set out in this section by an agreement made by them in writing, provided such agreement is not repugnant to the other rules and regulations set out in this chapter. (Ord. No. 2566, § 4, 1-20-60; Ord. No. 2753, § 1, 7-26-61)

**Sec. 15-5. Application and filing fee.**

(a) Any person desiring to drill, complete and operate a well within the regulated area of the city shall present an application in duplicate therefor to the city secretary, which application shall be in writing addressed to the mayor, be signed by the applicant or some person duly authorized to sign same for the applicant, and shall state:

- (1) The date of said application;
- (2) The name and address of the applicant and if the applicant is a partnership, the names and addresses of the general partners;
- (3) The number of the drilling unit and the particular lot and block number or tract in the drilling unit on which the proposed well is to be located, together with certified or photostatic copies of each deed, lease, or drilling contract with the owners of the land covering the lots, blocks or tracts in the drilling unit over which the applicant has control of oil rights or gas rights and of any other requisite permissions from the owners of the surface and improvements located thereon;
- (4) The proposed depth of the well;
- (5) The proposed casing program of the well; and,

- (6) The exact and correct number of surface square feet in the drilling unit (including the streets) and the correct number of surface square feet of each lot or tract (including the streets) included within the drilling unit, together with a plat prepared by a duly licensed surveyor showing such information, as well as the exact location of the proposed well, the distances from well location to the exterior boundary lines of the drilling unit, and the distances from the well location to all residences and commercial buildings situated within seven hundred (700) feet of the well location.

(b) Each application shall be accompanied by a cashier's check in the amount of one thousand and five hundred dollars (\$1,500.00) made payable to the city, which shall be a filing fee. Each supplemental application shall furnish the information and conform with the requirements as set forth in paragraph (a), insofar as they are relevant to the authority requested therein and further accompanied by a cashier's check in the amount of five hundred dollars (\$500.00) made payable to the city, which shall be a filing fee. Each application shall be filed by the city secretary and kept as a part of the public records of the city. (Ord. No. 2566, § 5, 1-20-60; Ord. No. 81-99, § 2, 12-14-81; Ord. No. 82-52, § 2, 8-16-82)

**Sec. 15-6. Filing of applications and recommendations.**

Upon the filing of an application or supplemental application, accompanied by the filing fee required in section 15-5 above, the same shall be forwarded to the city manager and the city attorney for review. The city manager shall, no later than the first regular meeting day of the city council after the expiration of ten (10) days from the date of filing of the application, present the application, together with his own recommendation and the written recommendations of the city secretary and city attorney, to the city council for action. The decision of whether or not to grant the application shall be within the city council's discretion, and shall not be subject to review. If no decision is made by the city council within fourteen (14) days from the date of presentation by the city manager, the application shall be deemed to have been denied. (Ord. No. 2566, § 6, 1-20-60; Ord. No. 3043, § 1, 11-24-65; Ord. No. 82-52, § 3, 8-16-82)

**Sec. 15-7. Well location.**

No well shall be drilled and no permit shall be issued for any well to be drilled in any location which is nearer than seven hundred (700) feet from any residence, school, church, hospital or commercial building without applicant having first secured the written permission of the owner or owners thereof, nor shall any well be drilled within any of the streets, alleys, easements, or rights-of-way of the city. (Ord. No. 2566, § 7, 1-20-60; Ord. No. 70-97, § 1, 12-16-70)

**Sec. 15-8. Necessity of contract with surface owner.**

Neither this chapter, nor any permit issued hereunder, shall be interpreted to grant any right or license to the permittee to enter upon, use or occupy in any respect for the drilling or operation of any well, any surface land except by the written contract of the surface owner; nor shall it limit or prevent the free right of the owner to contract for the amount of damages, rights or privileges with respect to his own land and property. (Ord. No. 2566, § 8, 1-20-60)

**Sec. 15-9. Authority to prohibit drilling on a particular location or drilling block.**

(a) The city council shall have the power, and reserves the authority, to refuse any application for a permit to drill and operate any well at any particular location within any drilling block where, by reason of such particular location the character and value of the permanent improvements already erected on or approximately adjacent to the particular location in question, and the use to which the land and surroundings are adapted for school, college, university, hospital, or civic purposes, or for health reasons, or for safety reasons, or any of them, the drilling or operation of such well on such particular location might be injurious or a disadvantage to the city, or to its inhabitants as a whole, or to a substantial number of its inhabitants or visitors as a group.

(b) Reserved.

(c) Except as hereinabove provided, if an application and the notice thereof be found by the city council to comply in all respects with terms of this chapter, and the drilling and operation of a well is not prohibited by the terms of this chapter then the city council shall authorize the issuance of a permit for the drilling and operation of the well applied for. The granting and issuing of a permit for a well on a drilling unit as provided in this chapter shall automatically operate as a rejection and denial of any other pending application or applications for a well or wells on the drilling unit involved.

(d) Each permit issued under this chapter shall:

- (1) By reference have incorporated therein all provisions of this chapter with the same force and effect as if this chapter were copied verbatim in said permit;
- (2) Specify definitely the location of the well and the number of the drilling unit, as designated in subsection (a) of section 15-4 of this chapter, in which the well is to be located;
- (3) Specify that the term of such permit shall be a period of one year from the date of the permit and renewable yearly thereafter, upon applying for such extension in writing to the city secretary, as long as the permittee is engaged in drilling or commercial operations pursuant to such permit.

(e) Said permit in duplicate originals shall be signed by the mayor and prior to delivery to the permittee shall be signed by the permittee. One original of the permit duly executed shall be delivered to the permittee and one original of the permit duly executed shall be retained and filed by the city secretary, and, when so filed, shall constitute the permittee's drilling and operating license and the contractual obligations of the permittee to comply with the terms of such permit, of the bond hereafter mentioned and of this chapter. (Ord. No. 2566, § 9, 1-20-60; Ord. No. 82-52, §§ 4-6, 8-16-82)

#### **Sec. 15-10. Amendment of prior permits.**

If the permittee of any permit heretofore issued by the city desires to amend his permit to include more acreage than

was originally included in the original permit, he must apply for such amended permit in writing to the city secretary who shall thereupon issue an amended permit. (Ord. No. 2566, § 10, 1-20-60)

#### Sec. 15-11. Existing facilities.

Application for the issuance of a formal permit, including proof of compliance with the provisions of this ordinance [Ordinance No. 82-52] shall be required for all wells, equipment, structures or installations in existence on the effective date of this ordinance for a heretofore nonpermitted facility. In such case, the application and permit may cover more than one subject matter and no fee shall be required. (Ord. No. 82-52, §§ 7, 8, 8-16-82)

**Editor's note**—Section 7 of Ord. No. 82-52, adopted Aug. 16, 1982, amended Ch. 15 by deleting the provisions of former § 15-11, pertaining to the extension of prior oil and gas drilling permits and derived from Ord. No. 2566, § 11, adopted Jan. 20, 1960. Section 8 of said Ord. No. 82-52 enacted new provisions designated as a new § 15-11.

#### Sec. 15-12. Bond.

(a) If the issuance of a permit be authorized by proper vote of the city council, same shall not issue until the applicant shall file with the city secretary a bond executed by the permittee as principal and by a good and sufficient corporate surety company licensed to do business in the state, as surety, conditioned that the principal obligor will drill and operate said well in strict accordance with the terms of this council; that the principal will remedy any and all damages to streets, curbs, gutters, water lines, fire hydrants and other public property, occasioned in any manner by his or its drilling of said well, and will hold the city harmless from any and all liability growing out of such permit. Such bond shall run to the city for the benefit of the city and all persons concerned, shall be in a form to comply herewith, shall be in the amount of fifty thousand dollars (\$50,000.00) and shall be approved by the city attorney.

(b) Failure to keep said bond in full force and effect, in accordance with the terms hereof, shall be unlawful and shall

be punishable in accordance herewith. (Ord. No. 2566, § 12, 1-20-60)

**Sec. 15-13. Public liability and property damage.**

(a) Said permit shall not be issued until the applicant shall also file with the city secretary a memorandum copy of a policy or policies of insurance covering public liability for injury or death and for property damage, issued by a solvent insurance company or companies authorized to do business in the state, the amount of which policy or policies of insurance for liability for bodily injury or death shall not be less than two hundred fifty thousand dollars (\$250,000.00) as to any one person and not less than seven hundred fifty thousand dollars (\$750,000.00) as to any one accident, and the amount of such policy or policies for public liability for damage to property of others shall not be less than five hundred thousand dollars (\$500,000.00). The terms and conditions of such policy or policies covering such operations are to be such as to assure persons, firms or corporations against loss by liability imposed by law by reason of any accidental personal injury or death to any person other than the assured or his employees, or by reason of any such loss or damage to property of any person, firm or corporation other than the assured or his employees. In addition, prior to the issuance of the permit the applicant shall file with the city clerk a memorandum copy of a policy or policies of blowout or cost of well control insurance in an amount not less than one million dollars (\$1,000,000.00) for each well, subject to a deductible amount of not more than one hundred thousand dollars (\$100,000.00). The applicant shall also execute an agreement with the city to hold the city harmless from any and all liability arising out of the granting of, or the applicant's operations pursuant to, the drilling permit herein described. The applicant shall insure performance of this indemnity agreement by having contractual liability insurance, a memorandum copy of which shall be filed with the city clerk. Each policy of insurance shall contain a provision obligating the insurer to give the city council written notice of cancellation, not less than thirty (30)

days prior to the date of cancellation. Applicant shall, upon request of the city council submit the original or a certified copy of any policy for inspection at any time. The form of the foregoing policies of insurance as to coverage and amount and the form of the indemnity agreement referred to above shall be approved by the city attorney.

(b) In the event of the insolvency, bankruptcy or failure of any insurance company carrying insurance for any applicant or permittee hereunder, such applicant or permittee, upon receipt of written request from the city attorney, shall obtain insurance coverage in lieu of the policies affected by such insolvency, bankruptcy or failure, and submit same to the city attorney for approval. Applicant shall pay promptly all premiums for such insurance in strict accordance with his obligations to his carrier or carriers in order to maintain the above described coverage in full effect so long as the permit shall be valid.

(c) Failure to keep said policy or policies in full force and effect, in accordance with the terms hereof, shall be unlawful and shall be punishable in accordance herewith. (Ord. No. 2566, § 13, 1-20-60; Ord. No. 76-69, § 1, 9-20-76)

**Sec. 15-14. Permittee to hold city harmless against liability.**

The granting of a permit as provided herein and the acceptance thereof by the permittee obligates said permittee to hold the city harmless from any and all liability of every kind and nature whatsoever which may arise because of any act done or omitted by the permittee or successors thereto. (Ord. No. 2566, § 14, 1-20-60)

**Sec. 15-15. Unlawful to permit escape of mud, etc.**

It shall be unlawful for any person to permit to escape any mud, water, oil, slush or other waste matter from any slush pit used in the drilling or operating of any oil or gas well into any adjoining lots upon which permittee does not have leases or other contractual rights to use the surface, or upon leases



not owned by permittee or into the alleys, streets, gutters or sewers of the city; and within thirty (30) days after the completion or abandonment of any oil or gas well, the mud and other similar matter and materials used in connection with the drilling and operations thereon shall be removed from the premises. (Ord. No. 2566, § 15, 1-20-60)

**Sec. 15-16. Unlawful to drill without permit.**

It shall be unlawful and an offense for any person acting either for himself or as agent, employee, independent contractor, or servant of any other person, to commence to drill, to drill, to complete or to operate, any well within the regulated area of the city or to work upon or assist in any way in the prosecution or operation of any such well, without a permit for the drilling and operation of such well having first been issued by authority of the city council in accordance with the provisions of this chapter. (Ord. No. 2566, § 16, 1-20-60; Ord. No. 82-52, § 9, 8-16-82)

**Sec. 15-17. Deeper drilling.**

(a) Once any well has either been completed as a producer or abandoned as a dry hole, it shall be unlawful and an offense for any person to drill such well to a greater depth than that reached in the prior drilling operations without the permittee as to such well obtaining a supplemental permit after filing a supplemental application with the city secretary as provided in section 15-5.

In the event the city council is satisfied that said well may be deepened with the same degree of safety as existed in the original well, a supplemental permit may be issued, authorizing the deepening and operation of the well to such specified depth as applied for. In any deeper drilling or any deeper completion, or any deeper production operations, the permittee shall comply with all other provisions contained in this chapter and applicable to the drilling, completion and operation of a well or wells. Nothing contained herein shall be interpreted to require a supplemental permit for multiple completions within any portion of the well drilled pursuant to the original permit issued to a permittee under this chapter.

(b) In the event the permittee desires to rework any portion of the well drilled pursuant to the original permit issued under this chapter, then the permittee shall obtain a supplemental permit as provided in section 15-5 of this chapter. Blowout or cost of well control insurance shall not be required with respect to a supplemental permit to rework a well, provided the well shall not be drilled to a deeper depth than the original well and that the well shall not be within one thousand four hundred (1,400) feet of any inhabited structure. (Ord. No. 2566, § 17, 1-20-60; Ord. No. 2642, § 2, 10-19-60; Ord. No. 76-50, § 1, 6-28-76; Ord. No. 82-52, § 10, 8-16-82)

**Sec. 15-18. Rules for drilling and production operations.**

All persons engaged in the drilling and operation of oil and/or gas wells within the corporate limits of the city shall comply with the following rules and regulations:

- (1) No pipeline for the purpose of gathering, flowing or transmitting oil, gas, water, products, hydrocarbons, or any other substance shall hereafter be laid, relaid, moved, maintained, or operated except those as permitted under Article II, sections 15-31 through 15-47, of this chapter [Ordinance No. 81-17, as amended].
- (2) No person engaged in drilling or operating any well shall permit gas to escape or be vented into the air unless said gas be flared and burned. All gas flared or burned from a torch, pipe or any other burning device, within the city must be done in such manner so as not to constitute a fire hazard to any property.
- (3) It shall be unlawful for any person to use or operate in connection with the drilling or reworking of any well, any wooden derrick or any steam powered rig; or to permit any drilling rig or derrick to remain on the premises or drilling site for a period longer than sixty (60) days after completion or abandonment of the well.
- (4) Two fluid operated blowout preventers with adequate working pressures for the maximum anticipated well-

head pressures shall be used for all drilling or completion operations involving the use of drill pipe or tubing after the surface casing has been set. The mechanical operation of the preventers shall be checked every twenty-four (24) hours and shall be tested with pump pressure with enough frequency to insure good working order at all times.

- (5) Only portable steel slush tanks for mud or water shall be permitted in connection with the drilling and reworking operations of any well except that earthen reserve pits may be used where space is available.
- (6) When any such well is abandoned because it is not suitable for any use within the reasonable future, then the well shall be plugged and abandoned in accordance with the laws of the state, the rules of the Railroad Commission of Texas, and/or any other agency having jurisdiction in connection with the abandonment or plugging of such well.
- (7) The premises shall be kept in a clean and sanitary condition, free from rubbish of every character, at all times, during the drilling operations and as long thereafter as oil or gas are being produced therefrom.
- (8) The person so drilling or operating an oil or gas well shall make adequate provision for the disposal of salt-water or other impurities which he may bring to the surface of the earth in such a manner as not to contaminate the water supply of the city or to destroy vegetation.
- (9) Open earthen storage for oil is prohibited.
- (10) All permanent oil tanks or battery of tanks shall be vapor tight and must be surrounded by a dike or ditch of at least one and one-half times the capacity of the tank or battery of tanks, and such construction must be of a nature and equipped, maintained and operated so as to assure, at all times, such capacity.

- (11) Printed signs reading: "DANGEROUS, NO SMOKING ALLOWED", or similar words, shall be posted in conspicuous places on each producing unit.
- (12) All permittee's premises shall be kept clear of high grass, weeds and combustible trash, or any other rubbish or debris that might constitute a fire hazard, within a radius of one hundred (100) feet around an oil tank, tanks or producing wells, or to limits of premises, whichever is the lesser.
- (13) No boiler, fired vessel, electric lighting generator or open fire shall be placed or remain nearer than one hundred fifty (150) feet to any producing well or oil tank.
- (14) All well heads, tank batteries and pumping units and equipment appurtenant thereto shall be adequately protected with "man-proof" fencing.
- (15) No oil storage tanks used in connection with the production or operation of a well, other than flow tanks, shall be permitted within the corporate limits of the city, and no flow tank shall exceed five hundred (500) barrel capacity, and a battery of flow tanks shall not exceed three (3) in number, except by special permission from the city council.
- (16) No well shall be drilled or re-worked in the city without the bore hole at all times being filled with drilling fluid of such weight and viscosity as will keep the well under control at all times.
- (17) All completed wells within the city shall be equipped with Christmas tree fittings and wellhead connections, with a rated working pressure equal to or greater than the surface shut-in pressure of the well. All wellhead connections shall be assembled and tested prior to installation by a fluid pressure which shall be equal to the test pressure of the fitting employed.
- (18) No prime movers for pumping wells except electric motors shall be permitted within the corporate limits

of the city closer than one thousand (1000) feet of a structure occupied for residential purposes.

- (19) It shall be unlawful to block or encumber, or close up any streets or alleys in any drilling or production operations, except by special permit from the city engineer, and then only temporarily.
- (20) It shall be unlawful for any person in connection with the drilling or reworking operations of any well within the city to take and to complete any drillstem test or tests except during daylight hours, and then only if the well affluent during the test is produced through an adequate oil and gas separator to storage tanks, or into an adequate reserve pit or tank, and the affluent 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.

(Ord. No. 2566, § 18, 1-20-60; Ord. No. 82-52, §§ 11, 12, 8-16-82)

**Sec. 15-19. Release from bond.**

If and when any permit shall terminate and become inoperative as in this chapter provided, or if and when the permittee shall file with the city secretary written notice of his election to surrender his permit and abandon the premises covered thereby, then if no claims under the bond or bonds shall be pending or have been filed as of the termination of the permit, the city secretary shall return the bond or bonds furnished by the permittee in connection with such permit; and, if claims are pending or have been filed, upon the satisfaction or defeat of such claims such bond or bonds shall thereupon be returned to the permittee. (Ord. No. 2566, § 19, 1-20-60; Ord. No. 79-46, § 1, 6-4-79)

**Sec. 15-20. Revocation of permit.**

It is further provided that in addition to the fines and penalties provided for herein, the city council will revoke the permit under which a well for oil or gas is being drilled, pro-

duced or operated, upon proof and evidence that any provision of this chapter is being violated after the issuance of the permit as hereinabove provided. Notice of revocation shall be in writing and shall be mailed by registered mail to the permittee's address shown in his application. Any permittee whose permit or license has been revoked may, within fifteen (15) days from and after the date of the order of revocation, appeal to the city council from such order; within fifteen (15) days from the filing of such appeal, the city council shall hear the same and shall either sustain or set aside the order. (Ord. No. 2566, § 20, 1-20-60)

Secs. 15-21—15-30. Reserved.

## ARTICLE II. PIPELINES\*

### Sec. 15-31. Definitions.

As used in this article, the following terms, shall have the meanings herein ascribed to them.

*Adjustment.* The horizontal or vertical repositioning of a pipeline due to reasons unrelated to pipeline operations.

*Gas leak.* Any accidental release of hydrocarbons or other chemicals which are a gas or vapor in the pipeline.

*Interstate gas pipeline.* A pipeline used in the transportation of a natural gas, flammable gas or a gas which is toxic or corrosive, which are subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, except that it shall not include any pipeline within a state which transports gas from an interstate gas pipeline to a direct-sales customer within such state purchasing gas for its own consumption.

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\***Editor's note**—Ord. No. 81-17, § 1, enacted April 20, 1981, amended Art. II, Pipelines, in its entirety to read as herein set out, with minor, nonsubstantive additions and deletions made for purposes of clarity. The substantive provisions of former Art. II, §§ 15-31—15-40, were derived from Ord. No. 70-81, §§ 1—10, adopted Oct. 7, 1970; Ord. No. 75-72, §§ 1—6, adopted Nov. 3, 1975; and Ord. No. 79-13, § 1, adopted Feb. 12, 1979.

*Interstate liquid pipeline.* A pipeline used in the transportation of hazardous liquids in interstate or foreign commerce which are subject to the Hazardous Liquid Pipeline Safety Act of 1979, as amended.

*Intrastate pipeline.* Pipelines which are not interstate pipelines.

*Liquid leak.* Any accidental release of more than five (5) barrels (forty-two (42) gallons each) of hydrocarbons or any other chemicals, excluding water, which are a liquid in the pipeline.

*Owner or operator.* The individual, partnership, corporation or other entity that operates the pipeline. As used herein, one term is always inclusive of the other unless otherwise specified.

*Pipeline.* Any pipe used in the transportation of gaseous or liquid hydrocarbons or any other chemicals, excepting pipelines located within the part of any oil refining or petrochemical plant.

*Repair.* To restore or replace any broken, leaking or defective part of a pipeline or involving excavation or boring for replacement of any portion of the corrosion protection system.

*Replacement.* Any new pipeline or section of a pipeline replacing any old pipeline or section of pipeline which was previously permitted and is being removed from service. Replacement must occur in the same easement as the line being removed from service. (Ord. No. 81-17, § 1(15-31A), 4-20-81)

#### **Sec. 15-31.1. Permit required.**

No new pipeline shall be installed and thereafter maintained within the City of Port Arthur, until a public hearing has been held on the application for the pipeline, and a permit granted by the city council, pursuant to this article. (Ord. No. 81-17, § 1(15-31B), 4-20-81; Ord. No. 82-84, § 1, 11-22-82)

#### **Sec. 15-32. Application—New pipeline.**

Prior to beginning any work or preparation for the construction of a pipeline within the city an application for a permit to do so, in the form described herein, must be filed with the director of public services. Within twenty (20) days of receipt of such application, the

director shall advise the applicant as to the acceptability of his proposed pipeline location and route. If the proposed route or location is not approved by the director, the applicant may resubmit his permit application based on a revised route or location. Within sixty (60) days of receipt of such application, the director shall either grant or deny the permit, in writing, to the applicant. If a permit application is denied, the director shall explain, in writing, to the applicant the reasons for denying said permit. If no response is made to the applicant within the prescribed sixty-day period, the applicant may assume that its application has been denied.

(A) *Intrastate pipelines.* All permit applications submitted pursuant to this article shall include the following:

- (1) The name, business address and telephone number of the applicant and of the pipeline owner in cases where the applicant is the operator but not the owner;
- (2) The name, titles and telephone numbers of the following persons:
  - (a) The person preparing the application;
  - (b) The person designated as the principal contact for information; and
  - (c) The person or firm which will operate the pipeline if other than the applicant;
- (3) The origin and destination of the pipeline;
- (4) The material to be transported through the pipeline;
- (5) The maximum allowable operating pressure on the pipeline as determined according to the applicable U. S. Department of Transportation or Texas Railroad Commission procedure;
- (6) The normal pressure at which the pipeline is to be operated;
- (7) Engineering plans, drawings and/or maps with summarized specifications showing the horizontal and vertical location of the pipeline so that the conflict with the impact upon the existing and future development can be determined;
- (8) Complete and detailed cross sections for all public street, right-of-way and easement crossings;



- (9) The design criteria under which the pipeline will be constructed or relocated;
  - (10) An affidavit to the effect that the pipeline will be constructed, operated and maintained in accordance with the lawful requirements of this article;
  - (11) A hold-harmless agreement, bond and liability insurance policy as set forth in section 15-36;
  - (12) The required permit fee as set forth in section 15-47.
- (b) *Interstate pipelines.* [All permit applications submitted pursuant to this article shall include the following:]
- (1) The name, business address and telephone number of the applicant and of the pipeline owner in cases where the applicant is the operator but not the owner;
  - (2) The name, titles and telephone numbers of the following persons:
    - (a) The person preparing the application;
    - (b) The person designated as the principal contact for information; and,
    - (c) The person or firm which will operate the pipeline if other than applicant;
  - (3) The origin and destination of the pipeline;
  - (4) The material to be transported through the pipeline;
  - (5) The normal pressure at which the pipeline is to be operated;
  - (6) Engineering plans, drawings and/or maps showing the horizontal and vertical location of the pipeline so that the conflict with and impact upon the existing and future development can be determined;
  - (7) Complete and detailed cross sections for all public street, right-of-way and easement crossings;
  - (8) An affidavit to the effect that the pipeline is an interstate pipeline as defined in section 15-31;

- (9) Liability insurance, bond and hold-harmless agreement as prescribed by section 15-36;
- (10) The required permit fee as set forth in section 15-47. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-33. Application; replacement, adjustment or repair of an existing pipeline.**

A prior administrative permit must be secured from the director of public services, after notification of city council, in each instance:

(a) Any replacement, adjustment or repair of an intrastate pipeline. The application shall be accompanied by:

- (1) Original permit number, if any;
- (2) Complete description of work to be done;
- (3) An affidavit that the work to be done is designed and shall be constructed, operated and maintained in accordance with the standards required by this article;
- (4) A permit fee as prescribed by section 15-47;
- (5) A bond in the minimum amount prescribed by section 15-36 shall be provided for any construction or installation within a public street, alley, right-of-way or other public way or easement.

(b) Any replacement or adjustment of an interstate pipeline within the city or repair of any interstate pipeline within city right-of-way, easement or property. The application shall be accompanied by:

- (1) Original permit number, if any;
- (2) Complete description of work to be done;
- (3) A permit fee as prescribed by section 15-47;
- (4) A bond in the minimum amount prescribed by section 15-36 shall be provided for any construction or installation within a public street, alley, right-of-way or other public way or easement.

In the case of emergency repairs, a prior administrative permit shall not be required; however, telephone notification to the city  
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shall be made within twenty-four (24) hours of said emergency. A written affidavit certifying to such emergency repairs shall be furnished to the department of public services within twenty (20) days of such emergency together with all the items required in the case of an application for prior administrative permit excepting a bond. (Ord. No. 81-17, § 1, 4-20-81; Ord. No. 82-84, § 2, 11-22-82)

**Sec. 15-34. Notice; transfer of ownership.**

Notice of transfer of ownership must be given by the owner to the director of public services in each instance of the transfer of ownership of an existing pipeline within the city. Said notice shall include:

- (a) If previously permitted:
  - (1) Original permit number;
  - (2) Material(s) to be transported through the pipeline;
  - (3) An affidavit that the pipeline will comply with the standards and permit required by this article;
  - (4) A fee as prescribed by section 15-47 to cover the administrative costs in enforcing this article;
  - (5) Liability insurance, bond and hold-harmless agreement as prescribed by section 15-36.
- (b) If not previously permitted:
  - (1) Origin and destination of the pipeline;
  - (2) Material(s) to be transported through the pipeline;
  - (3) Engineering drawings of the location and alignment of the pipeline;
  - (4) An affidavit that the pipeline will comply with the standards required by this article;
  - (5) A fee as prescribed by section 15-47 to cover the administrative costs in enforcing this article. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-35. Location, routings to be established.**

The city council, upon the recommendation of the director of public services and director of planning, shall establish locations of routings for pipelines within the city in accordance with these criteria:

(a) Where feasible new pipelines shall be located within pipeline corridors as delineated upon the pipeline corridor map of the city, which is on file in the office of the public services, the office of the director of planning, and the office of the city secretary, said map being made a part of this article as if the same were set forth herein in detail.

(b) When it is not feasible for new pipelines to be located within designated corridors they should:

- (1) Follow property boundaries of existing easements to avoid unnecessary fragmentation of land; avoid diagonal routes except if following man-made or topographical features; and avoid the creation of "slivers" of land between rights-of-way.
- (2) Avoid areas of unique recreational or aesthetic importance, environmentally sensitive areas and areas of historical or cultural significance.
- (3) Avoid conflict with existing urban development.

Permits issued hereunder shall authorize the location of a new pipeline only in accordance with vertical and horizontal routings established as aforesaid. Permits shall be issued subject to all necessary right-of-way being acquired by applicant. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-36. Liability protection.**

(a) Any person, firm or corporation making an application for any permit under this article, which shall include a pipeline within, under, across, or along a public street, alley or other public way or easement, shall, as a condition precedent to the granting of such permit, execute a hold-harmless agreement, on a form approved by

the city attorney, indemnifying the city for any liability arising out of or connected with the granting of such permit or any construction or operating pursuant thereto as it pertains to a public street, alley, or other public way or easement except for the negligence of the city. In addition, the applicant shall furnish a bond (excepting the case of a permit under section 15-34 where further construction or installation is not involved) on form and with corporate surety satisfactory to the city, in an amount of fifteen thousand dollars (\$15,000.00) for each location involving the crossing of all or a part of a public street, alley, way or easement, and ten dollars (\$10.00) per linear foot of line within such public street, alley, way or easement in cases other than a crossing; provided, that an aggregate total bond shall not be required in excess of forty-five thousand dollars (\$45,000.00) regardless of the number of crossings or linear feet of line within a public street, alley, way or easement. Such bond shall inure to the benefit of the city and any person who may suffer a loss or injury as a result of the applicant's operations under his permit as it pertains to a public street, alley, or other public way or easement during the period until completion of installation of the line or lines is approved in writing by the city engineer. Applicant shall further maintain at all times during the life of the permit comprehensive general liability insurance for bodily injury and property damage, including explosion, collapse and underground hazard coverage, in the minimum combined single limit amount of three million dollars (\$3,000,000.00) as it pertains to a public street, alley or other public way or easement.

(b) A certificate of insurance specifying the above required coverage with an insurance company having acceptable insurance rating shall be furnished to the city secretary prior to the issuance of any permit. Such certificate of insurance shall provide that at least fifteen (15) days prior written notice of the termination of insurance or any modification of insurance shall be given to the city.

(c) Any bond provided pursuant to the ordinance prior to this amendment may be terminated upon completion of the installation of the pipelines to which it relates upon the written certification of completion by the city engineer, and provided that permittee shall maintain liability insurance as required under paragraphs (a) and (b) hereof. The termination of a bond shall not affect any claim,

damage, injury, or cause of action arising thereon prior to the date of termination. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-37. Minimum standards and specifications (intrastate).**

All new pipelines within the city shall be designed and constructed in accordance with the latest approved minimum standards established by the U. S. Department of Transportation or the Texas Railroad Commission, whichever is more stringent, and any special requirements established as a condition of permit approved by the city.

The operation and maintenance of all pipelines, including, without limitation, existing pipelines, within the city shall conform to the standards established by the U. S. Department of Transportation or the Texas Railroad Commission, whichever is more stringent.

All owners of pipelines shall furnish an affidavit to the effect that their pipeline is being operated and maintained in accordance with the standards and permit required by this article. Such affidavit shall be furnished on the anniversary date for the original affidavit provided under section 15-32 or section 15-38. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-38. Application to existing pipelines.**

The owner or operator of any existing pipeline within the city shall furnish the director of public services with the following:

- (1) Maps or drawings showing the location of each such pipeline;
- (2) A description of the materials transported, their source and their destination;
- (3) The normal and maximum operating pressures on the line;
- (4) The name, title and telephone number of the person(s) responsible for the operation of the pipeline(s);
- (5) The name, title and telephone number of the person(s) to be contacted in the case of an emergency;
- (6) An affidavit that the pipeline will comply with the applicable standards required by this article;

- (7) An affidavit as to whether the pipeline is an interstate or intrastate pipeline as defined in section 15-31.

Such information shall be furnished within ninety (90) days following the effective date of this article. It shall be unlawful for any person, corporation or other entity to operate and maintain a pipeline in the city after the expiration of said ninety (90) days unless or until the information enumerated above has been provided to the director of public services. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-39. Markers to indicate location.**

The owner or operator of any pipeline within the city shall place and maintain line markers as close as practical over each pipeline at each crossing of a public street, utility easement, railroad, navigable waterway, or drainage canal. Such markers shall be of permanent type construction of metal or concrete and shall contain a permanent label identifying the pipeline owner or operator, telephone number and type of product in the line. Products may be broadly classified as crude oil, products, natural gas or light hydrocarbons.

Line markers shall not be required for pipelines located offshore or under inland navigable waterways, however, markers shall be located as close as practical to the shore/vegetation line of such waters. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-40. Telephone notification; accidental release.**

Telephone notification to the pipeline inspector shall be made immediately upon the discovery of: Any accidental release of hydrocarbons or other chemicals which are a gas or vapor in a pipeline, or; Any accidental release of more than one (1) barrel of hydrocarbons or any other chemicals, excluding water, which are a liquid in a pipeline.

This notification shall include the following information:

- (1) Name and address of the pipeline operator;
- (2) Name and telephone number of the reporter;
- (3) Location of the accidental release;

- (4) Description of the material released; and,
- (5) Any other significant information. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-41. Required reports; intrastate gas pipelines.**

All persons, firms, or companies operating pipelines within the city limits of Port Arthur shall file within five (5) days of the discovery of any leak (as defined in section 15-31) a written leak report with the director of public services, who shall immediately inform the city council of the leak report. Such report shall provide at a minimum the information required on the most current department of transportation or Texas Railroad Commission leak report form. Upon request such companies shall make available for inspection the following:

- (1) Operating and maintenance plan;
- (2) Emergency plan;
- (3) Annual report;
- (4) Construction test report.

(Ord. No. 81-17, § 1, 4-20-81; Ord. No. 82-84, § 3, 11-22-82)

**Sec. 15-42. Required reports; intrastate liquid pipelines.**

All persons, firms, or companies operating pipelines within the city limits of Port Arthur shall file within five (5) days of the discovery of any leak (as defined in section 15-31) a written leak report with the director of public services, who shall immediately inform the city council of the leak report. Such report shall provide at a minimum the information required on the most current department of transportation or Texas Railroad Commission leak report form. Upon request such companies shall make available for inspection the following:

- (1) Construction records;
- (2) Operating and maintenance procedures.

(Ord. No. 81-17, § 1, 4-20-81; Ord. No. 82-84, § 4, 11-22-82)



**Sec. 15-43. Pipeline inspector.**

The position of pipeline inspector is hereby established in the department of public services.

The pipeline inspector shall have such powers and perform such duties as may be delegated to him by the director of public services, including, but not limited to:

- (1) Processing of pipeline permit applications.

- (2) Receiving and reviewing all required reporting as outlined in sections 15-41 and 15-42.
- (3) Enforcement of this article.
- (4) Developing and carrying out a uniform program for inspection of intrastate pipelines to ensure that new pipelines are constructed and existing pipelines within the city are maintained and operated in accordance with standards required by this article.

It shall be the duty of pipeline owners and operators to cooperate with the city in such inspections. Such inspections shall not relieve the owners or operators of their independent responsibility for meeting the standards required by this section nor shall such inspections be construed to create any duty, assume any responsibility for or constitute any representation as to the condition of such pipelines for the benefit of the owner, operator, or their parties. Owners or operators, as appropriate, shall be liable to the city for any inspection fee in accordance with section 15-47. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-44. Penalty; revocation of permit, nuisance; individual's responsibility.**

(a) Any person, firm, corporation, or agent, who shall violate or fail or refuse to comply with any of the provisions of this article, or of any permit issued hereunder, or fail to comply therewith, or with any of the requirements thereof in violation of this article shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed, or continues and upon conviction of any such person shall be guilty of a misdemeanor, and upon conviction shall be punished as provided by section 1-8 of the Code of Ordinances of the City of Port Arthur. In addition, the city may at its option revoke any permit granted hereunder and order the cessation of operation of any pipeline or pipeline system constructed or maintained pursuant to such permit. Prior to the revocation of any permit, the city council shall set a time and place for hearing on such revocation. The city secretary shall be directed to give written notice to the holder of such permit by registered mail at least fifteen (15) days

prior to the date set for such hearing. The following shall be grounds for revocation of permit by city council:

- (1) That the permit was obtained by fraud or misrepresentation.
- (2) That the owner or operator of the pipeline has violated the provisions of this article.
- (b) The city council further finds, determines and ordains that the operation of any pipeline in violation of any of the provisions of section 15-31, sections 15-33 through 15-42 constitutes a condition which imperils and threatens the public health, safety and welfare, which interferes with and endangers the reasonable and peaceful use of public and private property, and which is a nuisance and shall be subject to all of the remedies by law or equity.
- (c) Each permit shall specify, and each permittee, by its written acceptance thereof, shall agree that permittee shall be liable to the city for the city's reasonable attorney fees, expert witness fees, other direct expenses and court costs in any legal proceedings resulting in a finding of any violation of its permit.
- (d) Individual's responsibility:
  - (1) A person or individual is criminally responsible, under this article for conduct that he performs in the name of or on behalf of a corporation or association to the same extent as if the conduct were performed in his own name or behalf.
  - (2) An agent having primary responsibility for the discharge of a duty to act imposed by this article on a corporation or association is criminally responsible for omission to discharge the duty to the same extent as if the duty were imposed by this article directly on him.
  - (3) If a person or individual is convicted of conduct constituting an offense performed in the name of or on behalf of a corporation or association, he is subject to the penalty authorized by this article for an individual convicted of the offense. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-45. Southern Union Gas Company—Exemption of distribution system.**

This article shall not apply to the distribution system of the Southern Union Gas Company for furnishing natural gas service

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within the City of Port Arthur pursuant to franchise; provided, however, that its transmission lines as defined in 48CFR 192.3 shall be subject to the requirements of sections 15-34, 15-35, 15-37, 15-38, 15-39, 15-40, 15-41, 15-44 and 15-47. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-46. Effect of other laws.**

The provisions of this article shall be subject to any federal and state legislation, rules, or regulations enacted or adopted, or which shall be hereinafter enacted or adopted, to the extent that such laws and regulations shall preempt or supersede the authority of the city with respect to this article or provision hereof. (Ord. No. 81-17, § 1, 4-20-81)

**Sec. 15-47. Fees.**

The fees for permits and inspections of pipelines are fixed and established for the respective purposes at the following charges:

- (a) New pipeline permit fee ..... \$1500
- (b) Administrative permit fee (replacement, adjustment or repair) ..... 100
- (c) Transfer of ownership ..... 100
- (d) Annual inspection fee (intrastate pipelines) ..... 100 per mile

(Ord. No. 81-17, § 1, 4-20-81)

**Secs. 15-48—15-50. Reserved.**

**ARTICLE III. SABINE LAKE DRILLING\***

**Sec. 15-51. Applicability.**

(a) *Areas Within City Limits.* This article shall apply to that area of Sabine Lake lying below the line of mean high tide, as that line exists on the effective date hereof [April 9,

\*Editor's note—Ord. No. 78-29, §§ 1—29, adopted April 3, 1978, did not expressly amend this Code; hence, codification as Art. III of Ch. 15, §§ 15-51—15-83, is at the discretion of the editor.

1978], and within the boundaries of the city, as such boundaries may exist from time to time (except as noted in subsection (b) herein), including Pleasure Island and all natural and artificial islands, spoil banks, and other territory, whether submerged or exposed, situated within such area.

(b) *Areas Outside, But Within 5,000 Feet of City Limits.*

- (1) *Generally.* Section 15-68, paragraphs (1) through (15), (17) and (18) shall apply to all drilling operations in Sabine Lake outside the city limits but within five thousand (5000) feet of the city limits. Furthermore, before drilling operations are commenced on any well so located, the operator shall file with the Pleasure Island Director, for his approval, a casing program for such well, stating the location of such well. The failure to file with and obtain the approval of the Pleasure Island Director of said casing program, and the failure to follow such casing program or the requirements of section 15-68, paragraphs (1) through (15), (17) and (18), is hereby declared to create a nuisance and to be a violation of this article.
- (2) *Wells deviating from vertical, at some point vertically below the city limits.* Whenever drilling or production operations commenced after the effective date of this article [April 9, 1978] are conducted at a water surface location outside of the city limits, but within five thousand (5000) feet of the city limits, where the well is intended to have a deviation from the vertical to the effect that the bottom of the hole, or some point between the surface location and the bottom of the hole, will be vertical from some point in the city limits of an area subject to this article, such operations shall be conducted in accordance with the provisions of this article, except subparagraphs (2)(a)—(d) of subsection 15-61, all of sections 15-62 and 15-70, and paragraphs (3) of subsection 15-72(A) and (1) through (3) of subsection 15-72(B). The failure to observe any of said regulations, including the obtaining of a permit, is hereby declared to be a nuisance and a violation of this article. (Ord. No. 78-29, § 1(1.1)—(1.3), 4-3-78)

**Sec. 15-52. Definitions; rules of construction.**

The following words or terms wherever used or appearing herein, in the singular or plural form, shall have the scope

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and meaning here indicated, unless the context clearly indicates otherwise:

*Applicant* means any person who applies for a permit under the provisions of this article.

*Cluster area* shall have the meaning defined in paragraphs (a), (b) and (c) of subparagraph 15-61(H)(2).

*Directional well* means a well intended to be drilled from the surface to the bottom thereof with some portion of the hole having a deviation of more than five (5) degrees from the vertical.

*Exceptional location* is the surface location of any well that is not a regular location.

*Existing well* means a well in the process of being drilled under lawful permit, authorized by the council, or a completed well producing or capable of producing oil or gas in paying quantities, on the effective date of this article [April 9, 1978].

*Lake and lake areas* mean all of the area defined in subsection 15-51(a) hereof.

*Lake resort development area* (also sometimes referred to as the "lake resort area") means that portion of water, land and submerged land in Sabine Lake described in subsection 15-60(A) hereof.

*Lessee* means any person who owns all or part of an oil or gas lease subject hereto, or who has obtained the right from the owner of such a lease to conduct operations in search of oil and/or gas underlying such lease.

*Mayor, city manager, city council, council and city secretary* refer to those of the City of Port Arthur, unless otherwise expressly indicated.

*Permanent permit and temporary permit* shall have the meaning defined in subsection 15-74(b) hereof.

*Permit* means a permit granted pursuant to this article.

*Permittee* is any person holding a permit granted under this article.

*Person* shall include any natural person, persons or group of persons, whether acting individually, in concert, or in any representative capacity, and any partnership, private or public corporation, trust, estate, agency, trustee, executor, administrator, receiver, agent, or other legal entity.

*Pleasure Island Commission* or the *commission* means the commission established in section 15-59 hereof.

*Pleasure Island Director* or *director* means the executive director of the Pleasure Island Commission of Port Arthur.

*Regular location* is the surface location of any well or relief well within a cluster area as designated under this article.

*Relief well* means a well drilled or adapted under the emergency circumstances arising in connection with an existing well, to correct or safeguard against unexpected and inherently hazardous conditions.

*State lease tract* means the entire surface and subsurface area included and embraced within a single numbered state lease tract in Sabine Lake, as shown on the official maps on file in the General Land Office of the State of Texas.

*Straight well* means a well intended to be drilled from the surface to the bottom thereof with no portion of the hole having a deviation of more than five (5) degrees from the vertical.

*Submud*, as used in reference to a well completion or well producing structure, means a scheme or device in which no part of the wellhead installation, including any appurtenances thereto, extends above the bottom of the lake.

*Well* means any hole, excavation, or bore made downward from the surface to extend two hundred (200) feet or more into the subsurface, by any means or manner, for the purpose of exploring for, discovering, producing, injecting or



reinjecting oil, gas, or other minerals including, without limitation, sulphur, salt, any form of hydrocarbon, distillate, waste, and fresh or salt water.

*Well surface structure* shall have the meaning defined in subsection 15-61(F) hereof. (Ord. No. 78-29, § 2(2.1)—2.23, 4-3-78)

#### **Sec. 15-53. Compliance.**

No operation for production, treating, transporting, or for exploring, drilling or reworking shall be conducted in the area defined in section 15-51 above except as provided herein. (Ord. No. 78-29, § 1(1.4), 4-3-78)

#### **Sec. 15-54. Nonexclusivity of regulations.**

All regulations and prohibitions herein imposed shall be in addition to the regulations of all other state or federal regulatory bodies having jurisdiction, including, but not limited to, the Railroad Commission of Texas, the commissioner of the General Land Office of Texas, the Parks and Wildlife Commission of Texas, the United States Army Corps of Engineers, the United States Coast Guard, and any other departments of the United States government. (Ord. No. 78-29, § 1(1.5), 4-3-78)

#### **Sec. 15-55. Existing facilities.**

This article is prospective in its effect. All wells and all equipment, structures, or installations in existence upon the effective date hereof [April 9, 1978] within the area defined in subsection 15-51(a) and for which no permit has been issued hereunder, shall be deemed to be permitted hereunder and the owner and operator is deemed to be the holder of a permit duly issued and accepted hereunder for all purposes. Except as otherwise particularly required hereunder, or as may be hereafter particularly required by the council in the implementation of regulations hereunder, no application for issuance of a formal permit is required as to such existing facilities. But any and all other requirements hereof as to permits and permittees shall apply, and the council, or the

director or commission acting under its direction, may hereafter require application for and issuance of a formal permit for any such existing and heretofore nonpermitted facility. In such case, the application and permit may cover more than one subject matter and no fee shall be required. (Ord. No. 78-29, § 27(27.1), 4-3-78)

**Sec. 15-56. Continuation of prior permits.**

Any permit or license granted prior to the effective date hereof [April 9, 1978] by the city with respect to any matter for which a permit is required hereunder is hereby declared to be a valid and subsisting permit hereunder, provided that all such permits and licenses are subject to all of the provisions hereof (except that a new permit need not be obtained hereunder). (Ord. No. 78-29, § 26(26.1), 4-3-78)

**Sec. 15-57. Compliance with zoning, building ordinances, etc.**

(a) It is hereby determined by the council that any well structure, facility or installation as herein regulated shall, if permitted by a permit duly issued and subsisting hereunder, in no way be considered in violation of the zoning ordinance of the city or to require compliance with the building code.

(b) This article shall not be construed as repealing, altering, or otherwise affecting the validity and binding force of any ordinance pertaining to fire prevention, health, sanitation, or safety of persons or property heretofore enacted by the city, except as specifically repealed hereby. (Ord. No. 78-29, § 28(28.1), 29(29.1), 4-3-78)

**Sec. 15-58. Article not grant of rights to use public property.**

This article shall not be considered as granting any franchise or easement for the subsurface use of any public-owned property or easement within the city or of any use of any public-owned property or easement outside of the city. (Ord. No. 78-29, § 1(1.6), 4-3-78)

**Sec. 15-59. Pleasure Island Commission.**

(a) *Established.* The Pleasure Island Commission shall be established as set forth in the City Charter.

(b) *Rules of procedure; meetings, hearings.* The commission shall make and adopt rules of procedure governing its own actions, not inconsistent with this article, and shall hold such meetings and hearings as may be required for its proper function hereunder.

(c) *Designation as advisory agency, duties generally.* The Pleasure Island Commission is hereby designated as an advisory agency of the city council for all purposes stated or reasonably implied herein. This commission shall make a continuing study of operations for the exploring, drilling, and production of oil, gas and other minerals in Sabine Lake (including Pleasure Island) within the city limits, and the possible effects of the same upon public health, safety and general welfare of the city. It shall make such reports and recommendations from time to time as it deems advisable to the council for amendment and revision of this article and all other regulations pertaining to said activities. The commission shall have all of the powers and duties imposed upon it by any other provision hereof. (Ord. No. 78-29, § 3(3.1)—(3.3), 4-3-78)

**Sec. 15-60. Drilling operations in lake resort development area.**

(A) *Area designated.* There is hereby designated an area to be known as the "lake resort development area" (also referred to herein as "lake resort area"), which shall consist of all that portion of water, land and submerged land in Sabine Lake shown on Exhibit A [attached to Ordinance No. 78-29].\* In accordance with the power and duties of the Pleasure Island Commission to promote and administer the development of land commonly known as Pleasure Island,

\*Editor's note—Exhibit A to Ordinance No. 78-29, as amended, may be found on file in the offices of the city secretary and the Pleasure Island Commission.

including any additions thereto, said lake resort development area shall not be construed as public land designated as a park, recreation area, scientific area, wildlife area, or historic site under the provisions of Article 5421q, Revised Civil Statutes of the State of Texas.

(B) *Restrictions; exceptions generally.* Subject only to the other provisions of this section, no well other than an existing well shall be drilled, operated or produced from any surface location within the lake resort area, and no derrick, platform, rig, piling, tank pump, Christmas tree, wellhead connection, or any other equipment of any nature whatsoever, except buried flowlines and pipelines across the lake resort area, which lines at all times shall be subject to the direction of the city council, used in the drilling, production, storing, processing or treating of oil, gas or other minerals shall be operated for such purposes within the lake resort area after the effective date of this article [April 9, 1978]. No permit hereunder shall ever be issued for any such purpose, provided that the council may grant exceptions as follows:

- (1) Submud well producing structures may be permitted, and wells which will be completed with submud well producing structures may be permitted to be drilled from surface locations within the lake resort area.
- (2) Other exceptions to this section may be granted by the city council upon application for a permit hereunder and an affirmative showing by the applicant that the requested exemption is necessary to prevent confiscation of property. The term "confiscation of property" as used in this instance shall not be deemed to exist unless it is established by the applicant that:
  - (a) Use of a surface location outside the lake resort area, whether on water or on land, renders it physically impossible to make a bottom hole completion within such area;
  - (b) Pooling or unitization of the minerals alleged to be confiscated will not eliminate the need for such a well or, if pooling or unitization would so

eliminate necessity for the well, that good-faith efforts by the applicant so to pool or unitize on a reasonable basis had been made by applicant and failed;

- (c) Applicant is suffering loss through uncompensated drainage of its lease, or is in imminent danger of losing its lease; and
- (d) Subject to paragraph (1) immediately preceding, no submud completion is practicable for engineering reasons.

(C) *Relief wells.* Drilling of a relief well from a surface location in the lake resort area may be commenced without first securing a permit if such action is deemed necessary in the good-faith opinion of the lessee. Lessee shall make all reasonable efforts to notify the Pleasure Island Director by telephone as soon as feasible, but failure to make such notification shall not be deemed a violation of this article. Within twenty-four (24) hours after the commencement of operations for the drilling of such a relief well, the lessee drilling the same shall notify the Pleasure Island Director that such operations have been commenced, stating fully the reasons therefor; and such lessee shall within five (5) days after such commencement of operations make application for a permit to drill said well as elsewhere provided herein. The lessee drilling such relief well shall also furnish promptly any information with respect to such relief well as may be requested from time to time by the council, the commission, the director or any authorized official or employee of the city. No such well drilled as a relief well under the provisions of this subsection shall be completed as a producing well unless a permit therefor shall have been issued in the same manner as is required for the drilling of any other well. Any relief well not completed as a producing well within six (6) months after commencement of drilling operations, unless an extension is obtained from the city council, shall be plugged and abandoned. Extensions not exceeding a six-month period may be granted by the city council. (Ord. No. 78-29, § 4(4.1)—(4.3), 4-3-78)

**Sec. 15-61. Drilling operations outside the lake resort development area.**

(A) *Applicability.* This section shall apply to those portions of Sabine Lake and Pleasure Island which are not included within the lake resort development area.

(B) *Restrictions Generally.* No rig, platform, piling structure, derrick, tank, Christmas tree, pipe, tube, meter, separator or any other equipment whatsoever used in the drilling or operation of a well or in the production, treating or storing of oil, gas or other minerals shall be erected, constructed, installed or maintained, operated or allowed to exist in the area covered by this section except as permitted by this article. No barge, rig, boat or ship shall be moored, anchored or sunk in place in the area covered by this section for the purposes of drilling or operating a well or of producing, processing, treating or storing oil, gas or other minerals except as permitted herein.

(C) *Temporary Operations.* Any item or thing enumerated in subsection (B) hereof may be situated in the area covered by this section for a period not to exceed six (6) months, provided that a temporary permit therefor be obtained as prescribed by sections 15-71 and 15-72 hereof prior to the commencement of erection, construction, installation or emplacement thereof. Such temporary permit shall be limited to such period of time as the applicant therefor may request or as may be determined to be reasonably necessary to accomplish the purpose for which such permit is requested, but in no event shall such permit be valid for a period in excess of six (6) months. Any such item or thing allowed under a temporary permit shall be removed prior to the expiration of the period for which such permit is granted. No permit shall be necessary with respect to any rig, barge, piling or other structures or equipment used in the drilling, completing, reworking, cleaning, repair or testing of a well for which a valid and subsisting permit shall have been issued hereunder, provided notice of such operation shall have been given to the Pleasure Island Director within seventy-two (72) hours (24-hour notice for

routine operations such as paraffin cutting, pressure surveying, storm choke maintenance and similar and related wireline work) and provided that any such structure or equipment shall be removed within thirty (30) days after completion of the well or completion of the workover, cleaning, testing or repairing; said 30-day period [is] to be [automatically extended if forces beyond the] reasonable control of the lessee prevent removal within said period, provided that before the expiration of said period, lessee shall notify the Pleasure Island Director of its inability to comply with this provision and the reasons therefor.

(D) *Permit Required, Relief Wells Exception; Completion of Relief Wells as Producing Wells.* No well shall be drilled without a permit duly issued and subsisting hereunder, provided that the drilling of a relief well may be commenced without first securing a permit if such action is deemed necessary in the good-faith opinion of the lessee. Lessee shall make all reasonable efforts to notify the director by telephone as soon as feasible of the drilling of such relief well, but the failure to make such notification shall not be deemed a violation of this article. Within twenty-four (24) hours after the commencement of operations for the drilling of such a relief well, the lessee drilling the same shall notify the Pleasure Island Director that such operations have been commenced, stating fully the reasons therefor, and such lessee shall within five (5) days after such commencement of operations make application for a permit to drill said well as elsewhere provided herein. The lessee drilling such relief well shall also furnish promptly any information with respect to such relief well as may be requested from time to time by the council, the commission, the director or any authorized official, consultant, contractor or employee of the city. No well drilled as a relief well under the provisions hereof shall be completed as a producing well unless a permit therefor as for any well in the lake area shall have been issued in the same manner as is required hereunder for the drilling of any other well. In connection with any such permit, an exception to the provisions of subsections

15-61(B) and subparagraphs (2)(a), (b) and (c) of subsection 15-61(H) may be granted by the council if the council determines that:

- (1) A well surface location not conforming to the provisions of subsections 15-61(B) and subparagraphs (2)(a), (b) and (c) of subsection 15-61(H) is necessary in order to complete such relief well as a producing well;
- (2) The denial of such permit would work an undue economic hardship on the applicant; and
- (3) The granting of such exception would not be unduly inimical to the general pattern of spacing of well surface structures established hereby and would not otherwise be potentially detrimental to the public health, safety or welfare.

Any relief well not completed as a producing well shall be plugged and abandoned within six (6) months of commencement of drilling operations unless an extension is obtained from the city council.

*(E) Plugging, Abandoning Wells; Removal of Surface Structures and Equipment from Plugged, Abandoned Wells.* Any permit issued for the drilling of a well shall be deemed to cover and include all rigs, barges, pilings, structures and equipment used in drilling, testing and completing such well. If a well is completed as a dry hole or if a well that once produced becomes depleted, or if a well used as an injection well or for other purposes ceases to be so used, and any such well is abandoned because it is not suitable for any use within the reasonably foreseeable future, then the well shall be plugged and abandoned in accordance with the regulations of the Railroad Commission of Texas or other regulatory body having jurisdiction, and within sixty (60) days after the well is plugged, all other surface structures and other surface equipment appurtenant to such well or used in connection therewith shall be removed; said 60-day period [is] to be automatically extended if forces beyond the reasonable control of the lessee prevent removal within the 60-day period, provided that before the expiration of said



60-day period, lessee shall notify the director of its inability to comply with said 60-day provision and the reasons therefor.

(F) *Structures and Equipment for Producer Wells; Protective Structures.* If a well is completed as a producer (including wells capable of paying production but shutin), no structures or equipment appurtenant to such well shall be constructed, erected, installed, maintained or operated in, on or above the waters of Sabine Lake as defined in subsection 15-51(a) except the following: Christmas tree, meters, valves, flowlines, pipelines, free water knockout, skimming and chemical injection equipment, and any other equipment required hereby or by any other regulatory authority having jurisdiction, all of which shall, to the extent possible consistent with generally accepted industry safety practices, be enclosed within a protective structure, all of which shall collectively be termed and referred to hereinafter as a "well surface structure." Such structures shall be designed and constructed to withstand winds and tides of hurricane force. As of the effective date of this article [April 9, 1978] and from time to time thereafter, the city council shall prescribe reasonable designs for the protective structures to be used on completed wells, and any design so approved may be used by the lessee. For all onshore well structures on Pleasure Island, including any additions thereto, protective structures, production and pumping equipment shall be fully enclosed by a building or fence or by natural screening that is appropriate to the area in which it is located and approved by the Pleasure Island Commission; in addition such onshore wells shall comply with all applicable provisions of Ordinance No. 2566, "Port Arthur Oil and Gas Ordinance," [codified herein as §§ 15-1—15-20 of this chapter] not in conflict with this article. All equipment comprising a well surface structure which can be feasibly submerged or placed underground in accordance with generally accepted industry safety practices at the time of such installation shall be submerged or placed underground under such protective structure.

All protective well structures hereafter installed and all reconstruction of any protective structures shall be subject to the following regulations:

- (1) All hardware and all fastening devices used in connection with a structure attached to or protecting a wellhead shall be of metal fully galvanized under the hot-dip process.
- (2) All timbers used shall be treated with a minimum of sixteen (16) pounds per cubic foot retention of seventy (70) per cent creosote and thirty (30) per cent coal tar. Wood piles used shall be treated with a minimum of twenty-two (22) pounds per cubic foot retention of seventy (70) per cent creosote and thirty (30) per cent coal tar.
- (3) The decking of all walkways for use in connection with any well protective structure shall be of the concrete-slab type or of a metal-grating type. If the metal-grating type is used, it shall be treated to withstand atmospheric corrosion. The use of timber for walkways constructed or reconstructed after the adoption of the preceding sentence [April 9, 1978] is prohibited, but existing timber walkways may be used until required to be reconstructed. By the term "reconstruction" in this section is meant such a major repair as involves the replacement of twenty-five (25) per cent or more of the material (whether all is done at one time or parts done at several times) of the walkway as it existed at the time of the adoption of this regulation. Rails, cushions, bumpers, and minor items are not included herein.
- (4) The spacing between vertical timbers used as a skirt around a well platform acting as a guard will be on 30-inch centers. Each timber shall be bolted in at least two (2) places, and all metal used will be galvanized. Any timber in existing skirts when replaced shall be spaced and bolted in accordance with the requirements hereof.

(G) *Silhouette of Well Surface Structures.* As of the effective date hereof [April 9, 1978] and from time to time thereafter, the city council shall prescribe the approved exposed silhouette of well surface structures, consistent with accepted safety standards, which are to be installed in the waters of Sabine Lake as defined in subsection 15-51(a) hereof. The rules adopted are as follows:

- (1) Christmas trees shall be located as low upon the water, and shall be of the minimum height required, in order to permit them to serve the functions for which installed, comply with the regulations of applicable government bodies, and be consistent with accepted safety standards.
- (2) Well protective structures shall be no taller than the Christmas tree they protect and shall be no wider than reasonably required in order to perform the function for which designed and to meet reasonable operating requirements.

(H) *Location:*

- (1) *Submud well producing structures.* Submud well producing structures shall be permitted to be installed at any location in the area covered by this section, and the drilling of wells which will be completed with submud well producing structures shall be permitted from any surface location in the area covered by this section.
- (2) *Well surface structures.* No well surface structure shall be located in the area covered by this section except in conformity with the provisions of this section.
  - (a) Subject to the exceptions hereafter provided and to the terms and conditions set forth in paragraph (3) of subsection 15-72(B), in any state lease tract on which there is no well surface structure located as of the effective date of this article [April 9, 1978], all well surface structures shall be located within an area in the form of a square with dimensions of five hundred (500) feet by five

hundred (500) feet. The center of each such area shall be designated in the permit for the first well to be drilled from such area. Each such area shall be termed and referred to hereinafter as the "cluster area." The first well surface structure placed on any such tract may be located at any location within such cluster area, but additional well surface structures shall be located not more than two hundred fifty (250) feet from the nearest existing well surface structure, except that the distance from center to corner wells in a cluster area may be no more than three hundred fifty-four (354) feet. No cluster area shall be designated within five thousand (5000) feet of any existing or designated cluster area unless approved by the Pleasure Island Commission.

- (b) In any state lease tract which contains well surface structures in existence as of the effective date thereof [April 9, 1978], all additional well surface structures placed in such tract shall be located in an area in the form of a square with dimensions of five hundred (500) feet by five hundred (500) feet, within which the existing well surface structures shall be located, which area shall be termed and referred to as the "cluster area." Additional well surface structures shall be located not more than two hundred fifty (250) feet from the nearest existing well surface structure, except that the distance from center to corner wells in a cluster area may be no more than three hundred fifty-four (354) feet. In the event that any state lease tract contains two (2) or more existing well surface structures on the effective date of this article [April 9, 1978], which are located so close together that the cluster area assigned to each would overlap, then only one (1) cluster area shall be permitted, within which the existing well surface structure which is located closest to a corner of such tract shall be located; provided

that, with the acquiescence of the lessees of adjoining state lease tracts, the lessee of such tract may designate another existing well surface structure around which the cluster area shall be located. The first permit granted hereunder within any such state lease tract shall specify the location of the cluster area. In the event that any state lease tract contains two (2) or more existing well surface structures on the effective date of this article [April 9, 1978,] which are located so far apart that the cluster area assigned to each would not overlap, then additional well surface structures may be placed in each of such cluster areas. Well surface structures appurtenant to a plugged and abandoned well shall not be considered to be a well surface structure for the purpose of this subparagraph.

- (c) If the location prescribed for a cluster area in subparagraph (a) above is situated within the lake resort area, ship channels or any other area where surface structures are prohibited by other governmental authorities, upon application the council shall prescribe an alternate cluster area; provided that no cluster area will be prescribed in the lake resort area except as contemplated in section 15-60.
- (d) Exceptions to subparagraphs (a) and (b) may be granted by the city council upon application for a permit hereunder and an affirmative showing by a lessee of any oil, gas, or mineral lease situated within the area covered by this section that an exception is necessary to prevent confiscation of property. The term "confiscation of property," as used herein, shall not be deemed to exist unless it is affirmatively established by lessee that use of a surface location in the applicable cluster area renders it physically impossible to make a bottom hole completion within the applicable state lease

tract and the certificate required under section 15-70 hereof is filed.

(I) *Seismic Surveys.* No geophysical work shall be conducted except upon proper application and the payment of a two hundred dollar (\$200.00) application fee. A proper application will include the following:

- (1) Letter of application requesting a geophysical permit. The letter shall set out the system to be employed, when it is intended to begin the work, and also the anticipated date of completion. A statement shall also be made relieving the city of any liability for damages which may result from that operation performed by the applicant;
- (2) [Public liability insurance policy.] The letter of application shall be accompanied by a copy of a valid and subsisting public liability insurance policy;
- (3) A plat outlining the areas proposed to be covered by the survey.

When the above is properly submitted, the director may issue a permit to the applicant to conduct such seismic or geophysical work if by his determination, this work will not create a public nuisance nor be contrary to the public safety. The determination shall include consideration of the following factors:

- (1) The location of the point relative to surrounding improvements and the distance of point of exploration from the nearest mean high tide shoreline;
- (2) The quantity and nature of the proposed seismic survey to be used in implementing the exploration;
- (3) The depth in the structure from the lake bottom at which the seismic survey will be operational;
- (4) The pendency of other activities in the lake at and adjacent to the point of exploration. (Ord. No. 78-29, § 5(5.1)—(5.14), 4-3-78)

**Sec. 15-62. Production platforms.**

(a) *Applicability.* This section shall apply only to the area of Sabine Lake defined in subsection 15-51(a).

(b) *Permit required; definition; design requirements.* No production platform or facility shall be erected, constructed, installed, maintained, operated, or allowed to exist without a permit duly issued or subsisting hereunder. As used in this section, the term "production platform or facility" shall mean any structure (other than a well surface structure) which holds or contains equipment for the handling, processing or treatment of oil, gas or other hydrocarbons, or any aggregation of equipment and facilities designed for any of such purposes. Such structures shall be designed and constructed to withstand winds and tides of hurricane force. No production platform or facility may be materially altered in height or area without a permit hereunder. Any change in such facilities which materially affects the architectural appearance shall be submitted to the Pleasure Island Commission in advance.

(c) *Storage capacity.* In Sabine Lake, within the city's corporate limits, no storage of oil, gas, or petroleum products shall be allowed other than that required for the normal operation of a separator or for the testing of a well. Maximum storage capacity for any production platform shall not exceed one hundred (100) barrels.

(d) *Number; location.* No more than three (3) production platforms shall be allowed at any one time in that portion of Sabine Lake situated within the boundaries of the city. No production platform shall be located within two (2) miles of the shoreline of Sabine Lake, and no production platform shall be located within three (3) miles of any existing production platform.

(e) *Approval of proposed locations.* The proposed location of any production platform for which a permit is requested must be approved by the council, which approval shall be signified by the issuance of a permit setting forth the location for such production platform. In determining the

location of production platforms hereunder, the city council shall consider, but shall not be limited to, the following factors: the opinions of other lessees in the area to be served by the production platform; convenience of the proposed location with respect to all then-existing production and any future production (insofar as same can be determined) in the area to be served by the production platform; sufficiency of the proposed facilities for present production and such future production as reasonably can be estimated; appearance of the proposed facilities, including compactness and height; willingness of the operator of the proposed platform to serve all parties within the area to be served by the platform and reasonableness of terms for so doing; experience, capability, integrity and financial stability of the operator of the proposed platform; availability of other means for disposing of such production; and effect of the type of facilities proposed upon the public health, safety and general welfare.

(f) *Permit conditions.* Any permit issued for a production platform shall be conditioned upon:

- (1) The agreement of the applicant that it will take and handle on fair and reasonable terms on such production platform all hydrocarbon production brought to such production platform from any well having a well surface structure location within a radius of three (3) miles from the center of such production platform;
- (2) The agreement of the applicant that it will treat all lessees within the area to be served by such production platform in as equal a manner as possible, and that, in the event production is submitted for handling on such production platform in greater volume or of differing quality than the facilities thereon are capable of handling, or should separate facilities be required for marketing purposes, the applicant will install, or permit other lessees to install, additional facilities thereon (including enlargement of such production platform if necessary) so as to provide for the handling of all production brought to such production platform; and



- (3) The agreement of the applicant that, in the event it is unable to reach an agreement with any other lessee desiring to have production handled on such production platform as to fair and reasonable terms for handling such production or for the enlargement of such production platform or the installation of additional facilities thereon, then the applicant will be willing to submit such dispute to arbitration under the rules of the American Arbitration Association and be bound by any decision rendered thereunder. (Ord. No. 78-29, § 6(6.1)—(6.6), 4-3-78)

#### **Sec. 15-63. Pipelines.**

(a) *Permit required.* No pipeline for the purpose of gathering, flowing, or transmitting oil, gas, water, products, hydrocarbons, or any other substance shall hereafter be laid, relaid, moved, maintained, or operated in the area covered by this article except as permitted under City of Port Arthur Ordinance No. 70-81, as amended, [codified herein as Article II of this chapter] and as authorized by the United States Army Corps of Engineers (hereinafter called "corps").

(b) *Records.* The owner of each pipeline hereafter laid in the area covered by this article shall furnish the director a copy of each instrument (including plats) concerning the pipeline which is filed with the corps, as well as a copy of the permit, ruling or other reply issued by the corps. The owner shall maintain in its office located in or nearest to the city a permanent record showing the location, age, maintenance activities and number of leaks, if any, for all pipelines which it may hereafter lay in the area covered by this article, which record shall be open at all reasonable times to inspection by any authorized official or employee of the city. (Ord. No. 78-29, § 8(8.1), (8.2), 4-3-78)

#### **Sec. 15-64. Pollution controls.**

(a) *Requirements generally.* All operations subject to regulation hereunder shall be conducted in strict compliance

with all ordinances of the city, all laws, rules and regulations of other governmental agencies having jurisdiction, relating to pollution or contamination.

(b) *Discharge of pollutants.* Adequate provision shall be made at all facilities for the disposal of saltwater or other production waste materials in a manner which prevents the reduction of recreational water quality, the contamination of surface or subsurface water, and the destruction of land or aquatic vegetation. All facilities must be operated and maintained in such a manner that no crude oil or other flammable petroleum product shall be permitted to escape or accumulate in any manner which creates a potential fire hazard or which may pollute water, damage land or exceed acceptable levels of air pollution.

(c) *Dredging, spoiling.* Dredging or spoiling in Sabine Lake shall be expressly prohibited unless such dredging can be accomplished without spoiling in undesignated spoil areas and is approved by the Pleasure Island Commission.

(d) *Equipment standards.* Equipment shall be constructed, operated and maintained so that there will be no excessive noise, vibration, odor, glare, or other harmful, dangerous or annoying substances or effects therefrom which can be eliminated or reduced by the use of modern, approved equipment. Proven technological and mechanical improvements in methods of drilling and production and in the type of equipment used therefor shall be adopted from time to time, as the same become available and if the use of such equipment, improvements and methods will reduce the aforementioned harmful effects. (Ord. No. 78-29, § 10(10.1)—(10.4), 4-3-78)

#### **Sec. 15-65. Painting and lighting of structures.**

(a) *Painting.* All parts of well surface structures, located above the water in the area covered hereunder and composed of materials generally painted in accordance with customary marine industrial standards, shall be painted a conspicuous color, unless another color is designated by the

council, and shall be repainted at sufficiently frequent intervals to maintain same in good condition. All production platforms and other structures, located above water in the area covered by this article and composed of materials generally painted in accordance with customary marine industrial standards, shall be painted an inconspicuous color, unless another color is designated by resolution of the council, and shall be repainted at sufficiently frequent intervals to maintain same in good condition.

(b) *Lighting.* All production platforms shall be lighted with a quick-flashing, red signal (sixty (60) flashes per minute) using a 12-volt, 0.46-amp system or equivalent thereof. All other surface structures or facilities shall be lighted with a quick-flashing, white signal (sixty (60) flashes per minute) with a 6-volt, 0.46-amp system or equivalent thereof. (Ord. No. 78-29, § 11(11.1), (11.2), 4-3-78)

#### **Sec. 15-66. Signs and advertising generally.**

No sign, poster, advertisement, light, or beacon shall be affixed to or placed about any surface structure, production platform or other structure, equipment or facility for which a permit is issued hereunder, except:

- (1) Working lights;
- (2) Signs such as "No Smoking" and "No Trespassing," where desired by the lessee; and
- (3) Such signs, lights and warning devices as may be required hereunder or by any other regulatory authority having jurisdiction. (Ord. No. 78-29, § 12(12.1), 4-3-78)

#### **Sec. 15-67. Removal of facilities.**

(a) *Well surface structures.* All well surface structures or other equipment appurtenant to a well, including pipelines and flowlines, all production platforms, and all other structures, platforms, facilities, or equipment, including pipelines and flowlines for which a permit has been issued by the city hereunder, shall be removed within sixty (60)

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days by the party to whom the permit was issued or transferred upon the permanent cessation of same, said 60-day period to be extended only in accordance with subsection 15-61(E). All pilings shall be pulled or cut off no less than fifteen (15) feet below the bottom of the lake.

(b) *Shell mats, lake-bottom pads.* Shell mats or pads laid on the floor of the lake shall be removed within sixty (60) days of abandonment or shall be distributed over the floor of the lake such that the lake bottom shall be no shallower than the previously existing natural bottom; said sixty (60) day period to be extended in accordance with subsection 15-61(E). A certified sounding from a registered surveyor showing the lake-bottom profile at the location and general area of the well or platform and appurtenant structures shall be provided to the Pleasure Island Director prior to the issuance of a release to the holder of the permit.

(c) *Onshore facilities on Pleasure Island.* Upon the abandonment of any onshore facilities on Pleasure Island, including any additions thereto, surface equipment shall be removed and the property shall be restored to its original condition, or to a condition compatible to the area, within sixty (60) days. (Ord. No. 78-29, § 9(9.1)—(9.3), 4-3-78)

#### **Sec. 15-68. Technical regulations.**

[The following technical regulations are applicable to drilling operations regulated under this article as provided in section 15-51.] The council may, from time to time, issue such rules and regulations not inconsistent with but in implementation hereof, copies of which shall be furnished to the director.

- (1) No well shall be completed or operated in a sand or horizon which would result in surface shut-in pressure in excess of the working pressure of standard American Petroleum Institute wellhead equipment on the well.
- (2) Each well drilled or operated will be equipped with casingheads, tubingheads, and wellhead connections

which conform to American Petroleum Institute standards. The casingheads shall have a working pressure of not less than three thousand (3000) pounds per square inch. The tubingheads and well head connections shall have a working pressure in excess of the well's shut-in surface pressure. All wells with a surface shut-in pressure of three thousand (3000) pounds per square inch or less shall be equipped with at least one (1) master valve and one (1) wing valve. All wells with a surface shut-in pressure in excess of three thousand (3000) pounds per square inch shall be equipped with at least two (2) master valves and a wing valve, and all connections upstream of the surface safety valve shall be flanged.

- (3) A surface safety valve shall be installed on all wells with a surface shut-in pressure in excess of three thousand (3000) pounds per square inch.
- (4) All flowing wells shall be equipped with a subsurface safety valve (storm choke) installed in the tubing string, unless a tubingless completion is involved. This valve shall be pulled and inspected between April 1 and October 1 of each year and more often if desired by lessee. However, in certain circumstances, due to pressure and flow in the well the subsurface safety valve (storm choke) requirements can be waived. In the event that the Railroad Commission of Texas issues an order which has the effect of authorizing the removal of such a subsurface safety valve, application can then be made to the Pleasure Island Director for waiver of this requirement. Upon written request for waiver from the operator for a particular well, the Pleasure Island Director shall evaluate the flow and pressure in that well, and using appropriate engineering guidelines to prevent the pollution of the lake, he may waive the requirement for the subsurface safety valve (storm choke).
- (5) Each well drilled or operated will be equipped with tubulars that conform to American Petroleum Institute

standards. The production string and the tubing string shall have a working-pressure capacity in excess of the well's surface shut-in pressure. The tubing shall be protected from well-effluent corrosion as required by internal coating and/or periodic chemical inhibitor injection, and periodic checks on iron count in well effluent shall be made and reported to the director upon request.

- (6) Each well drilled will be equipped with blowout preventers from the time the surface casing is set. The minimum preventer stacks to be installed on the surface casing will consist of one (1) set equipped with blanks, one (1) set equipped with rams, and one (1) Hydril type. The minimum preventer stack to be installed on protection and subsequent casing strings will consist of one (1) set equipped with blanks, one (1) set equipped with rams, and one (1) Hydril type. The blowout preventers will be worked before each trip and pressure-tested to the working pressure of the preventers at the time of installation on each casing string, and once per week thereafter. A choke manifold will be installed with the blowout preventer stack and will have the same working pressure or greater. Blowout preventer closing lines and all manifolding shall be made of steel. A manual means for closing blowout preventers shall be installed.
- (7) Each well drilled will use a drilling fluid and/or procedure which will provide a hydrostatic head greater than the formation pressure expected to be encountered, or other recognized method to accomplish well surface pressure control.
- (8) Drill-stem tests may only be started during daylight hours. If a hydrocarbon well effluent is produced during the test, it will be flowed through an adequate separator to storage or flared. No liquid hydrocarbons shall be deposited in the waters or on the lands of the lake area.

- (9) When any part of the area covered hereby is in the projected path of winds classified by the United States Weather Service to be of hurricane proportions, then at such time as the frontal edge is estimated to be not less than twenty-four (24) hours away, all lessees operating in the area covered hereby shall immediately shut down all drilling and producing operations and all drill pipe shall either be laid down and securely fastened or left in the well hole. If possible, all oil storage tanks shall be emptied and, if feasible, filled with water for adequate weight.
- (10) Whenever any well is abandoned, it shall be the obligation of the operator to plug such well in accordance with the laws of the State of Texas, the rules of the Railroad Commission of Texas, the procedure outlined herein and/or any other agency having jurisdiction in connection with the abandonment and plugging of such a well. The operator shall submit to the Pleasure Island Director's office seventy-two (72) hours in advance of the plugging operation a "Notice of Intent to Plug and Abandon," which will include the abandonment program and a request for release of permit. Whenever a drilling or reworking operation has just been completed on a well and the operator desires to plug and abandon such well, the 72-hour notice shall be reduced to no less than a twelve-hour notice.
- (a) Where enough of the producing or protective casing has been removed from the well to expose the shoe of the surface casing, then a 100-foot cement plug shall be placed opposite the shoe of the surface casing to extend at least fifty (50) feet downward and a similar fifty (50) feet upwards from the shoe of the surface casing. Sufficient time shall be allowed for this cement to harden enough so that it will sustain the weight of drill pipe or tubing to this depth. The operator shall feel for the top of the plug to determine that the top is at least fifty (50) feet above the shoe of the

surface casing and is of sufficient hardness to hold the weight of the drill pipe or tubing to this depth. In the event the top of the plug is not fifty (50) feet upwards from the shoe, then a second cement application will be required and tested as above. After the plug at the shoe has been successfully completed, then a minimum 50-foot cement plug shall be set at or near the surface, after which the casing shall be cut off at a depth prescribed by the Railroad Commission of Texas and the United States Army Corps of Engineers.

- (b) Where the protective or producing string of casing to be left in the well extends upwards from the shoe of the surface casing so as to prevent the above-described method of abandonment, then the following procedure will be used. A packer or cast-iron cement retainer shall be set in the surface casing fifty (50) feet above the top of any other casing within the surface casing, and sufficient cement shall then be squeezed below the packer or retainer to theoretically extend to one hundred (100) feet below the shoe of the surface casing and fill that portion up to the packer or retainer with the cement. The packer or retainer will be left in the well. Abandonment will then be completed in the same manner as described in subparagraph (a) of this paragraph.
- (c) Whenever operations under subparagraphs (a) and (b) of this paragraph are employed, then the following further requirements will be complied with:
- (i) When casing is to be shot or cut off and pulled, a blowout preventer with pipe and blank rams equipped to close off around the casing to be pulled shall be installed prior to cutting off the casing.
  - (ii) In all cases prior to cutting any casing, the annulus between the casing to be recovered



and the surface string of the casing will be tested to determine whether this annulus is dead or pressured. In the event it is pressured, then no casing will be recovered until this pressure is released to zero and the annulus filled with nine and one-half (9½) pounds per gallon mudladen fluid.

- (iii) The well shall have a safety valve installed on the top of the casing string before any casing is shot or cut off. This safety valve shall not be removed until the first joint of casing has been pulled and shall then be kept immediately at hand so that it may be, if needed, reinstalled.
  - (iv) The well shall be completely filled at all times with mudladen fluid of not less than nine and one-half (9½) pounds per gallon during all casing and tubing pulling operations. Periodic checks will be made of the mud fluid weight during displacing operations.
  - (v) Operator shall have a company or previously approved responsible representative at the well site during the setting and tagging of cement plugs and during the casing pulling operations, to insure that the procedures outlined in the "Notice of Intent to Plug and Abandon" filed with the Railroad Commission of Texas are complied with and to insure that the other provisions hereof are complied with.
- (d) Where well conditions prevent plugging of the well in accordance with subparagraphs (a) and (b) hereof, the operator shall plug and abandon such well using any alternate method which may be proposed by the operator and approved by the Pleasure Island Director.
- (e) The director's office or its designated representative shall witness all plugging and abandonments

and certify in writing that the abandonments were or were not in accordance with the above procedure. No permit will be released without certification that the plugging and abandonment was successfully accomplished in accordance with the above procedure.

- (11) The movement of hydrocarbons from wells to storage shall be made in such manner as to prevent the escape of hydrocarbons. All flowlines leading from wells to production platforms shall be tested to two thousand (2000) pounds per square inch water pressure or at least one thousand (1000) pounds per square inch in excess of the anticipated working pressure of the line for all working pressures in excess of one thousand (1000) pounds per square inch. All lines shall be placed in conformity with City of Port Arthur Ordinance No. 70-81, as amended, [codified herein as Article II of this chapter] and with the regulations of the United States Army Corps of Engineers. Each line shall be constructed from new or reconditioned pipe in first-class condition and, before it is submerged, shall be doped and treated in such manner as to offer reasonable resistance to saltwater corrosion.
- (12) All wells shall be cleaned, tested and produced in a manner to prevent pollution and utilize procedures and equipment that will eliminate or minimize any fire hazard.
- (13) When a leak occurs in a pipeline or flowline, the flow of substance will be stopped as soon as possible after being detected, and will continue to be stopped until repairs have been effected in the most expedient manner to prevent pollution and hazard.
- (14) All steel members of a production platform below the water line will be cathodically protected.
- (15) The use of wooden derricks and steam-powered rigs for drilling purposes is prohibited.

- (16) Tubingless completions are permitted if a permit therefor shall have been obtained from each other governmental agency requiring the same, copies of which shall be furnished to the director, and all other requirements of this article are complied with.
- (17) All applications for a permit to drill shall have attached thereto or contained therein a casing program proposed to be followed in said well, and said program must show that a surface casing will be set to a depth of at least fifteen (15) per cent of the length of the next string of casing proposed to be set. Such casing program shall be followed unless a variance is permitted by the Pleasure Island Director.
- (18) In all the area within the corporate limits of the city encompassing Sabine Lake, lying below the line of mean high tide, as that line exists on the effective date hereof [April 9, 1978], and within [those areas outside the city limits but within five thousand (5,000) feet of] the boundaries of the city, as such boundaries may exist from time to time, in all water areas, those units commonly referred to as "pumping units" employing so-called "sucker rods," whether beam or hydraulically actuated, are hereby prohibited; and there is hereby declared a prohibition against such pumping units. (Ord. No. 78-29, § 16(16.1)—(16.19), 4-3-78)

**Editor's note**—The city has advised that the prohibitions of § 15-68(18) on pumping units are applicable, as provided in § 15-51, both to the area of Sabine Lake within the corporate limits of the city and lying below the level of mean high tide and to the area of Sabine Lake lying within 5,000 feet of the corporate limits. Accordingly, to clarify the intent of § 15-68(18) and to conform the provisions of said paragraph to the provisions of § 15-51(b), the editor has added in brackets the phrase "those areas outside the city limits but within five thousand (5,000) feet of" to said paragraph (18) as set forth hereinabove.

**Sec. 15-69. Emergency operations by lessee without first obtaining permit.**

- (a) In the event that an emergency arises in the course of conducting its operations which, in the good-faith opinion

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of lessee constitutes a serious hazard to life and property, lessee may undertake such emergency operations as lessee deems necessary under the circumstances without first obtaining a permit, such emergency action to include, without limitation, the drilling of a relief well (as elsewhere herein provided), the intentional deviation of a well not originally intended to be deviated, or other emergency operations. Such emergency operations shall not be considered a violation or offense hereof or of any other ordinance of the city.

(b) Within twenty-four (24) hours after the commencement of any such emergency operations, lessee shall notify the director that such operations have been commenced; and as soon as practicable, but in any event within seven (7) days, lessee shall file a written report to the director with copies to the chairman of the commission setting forth a summary of the emergency and the actions taken by lessee to combat it. (Ord. No. 78-29, § 24(24.1), (24.2), 4-3-78)

#### **Sec. 15-70. Pooling and unitization certificate.**

No permit for the drilling of a well in Sabine Lake, as defined in subsection 15-51(a) shall be issued hereunder unless the applicant therefor shall have filed the certificate prescribed in this section, which shall thereupon become a part of the application and permit for all purposes of this article. Such certificate shall be in duplicate, under oath, and shall assert as a fact that:

- (1) The possibility of eliminating the necessity for drilling the well by pooling or unitization has been seriously considered by the applicant;
- (2) Such consideration has included discussion of such possibility at a meeting or meetings, held within ninety (90) days of the date of filing between those with power to pool or unitize, or to effectively recommend the same, of applicant and the owners of all operating rights in any lease or leases situated, in whole or in part, within four thousand (4000) feet of the proposed bottom hole location of the well; and

- (3) It is not feasible to eliminate the necessity for drilling the well by pooling or unitization.

Absent circumstances giving rise to reasonable doubt that the certificate was made in good faith, and if upon its face it complies in all respects with the requirements of this section, it shall be conclusive of the matters stated herein for the purposes of granting the permit sought. (Ord. No. 78-29, § 7(7.1)—(7.3), 4-3-78)

**Sec. 15-71. Permit procedure generally; application required, filing fee.**

(a) All permits required hereunder shall be issued in the form prescribed hereunder, except as provided in section 15-55 for existing structures and facilities.

(b) No permit shall be issued except upon application by the owner or owners of the property right to which the permit relates. No application shall apply for more than one (1) permit, and no permit shall cover more than one (1) subject matter; however, an associated freshwater well will be considered as part of an individual permit application for a well, platform or other facility. All applications for permits shall be in the form prescribed herein and shall contain the information and exhibits required herein. Application forms shall be available in the office of the Pleasure Island Commission. All applications for permits shall be signed and sworn to before a notary public by the applicant or some representative of the applicant having due and legal authority to enter into contracts binding upon the applicant. All applications for permits shall be filed in triplicate with the Pleasure Island Director. All applications for permits to drill a well or erect a production platform shall be accompanied by the filing fee of one thousand five hundred dollars (\$1,500.00); all applications for permanent permits for other purposes and all temporary permits shall be accompanied by a fee of two hundred dollars (\$200.00). A fee paid for a temporary permit shall be credited on the fee charged for a permanent permit in the event a temporary permit is applied for conversion to a permanent permit. All

applications shall contain an agreement by the applicant to provide boat transportation during normal working hours for the director or any other duly authorized city official, consultant, contractor or employee for the purpose of inspecting wells or the facilities for which the permit is requested, with the understanding that the furnishing of such transportation shall create no extra duty of care. When the director finds that the application has been properly submitted and is ready for processing in accordance with sections 15-73 and 15-74, then the aforementioned filing fees will be deposited to the city's account. No refund is thereafter available to the applicant except in cases where the permit is denied by council action, in which event two hundred dollars (\$200.00) will be retained by the city as a service charge and the balance refunded to the applicant. (Ord. No. 78-29, § 17(17.1), (17.2), 4-3-78)

**Sec. 15-72. Information, documentation for permit application.**

**(A) Well drilling permits.**

- (1) All applications for a permit to drill a well shall contain at least the following information:
  - (a) The names and addresses of all owners of working interests in the well;
  - (b) The name of the drilling contractor, if same be a different party than the applicant. If the identity of the drilling contractor is not known at the time that application is made, the name of the drilling contractor shall be furnished to the director prior to the commencement of drilling operations;
  - (c) The location from which the well is to be drilled, the approximate location of the surface structures appurtenant to the well, and the approximate bottom hole location of the well;
  - (d) The vertical depth to which it is proposed that the well be drilled, a statement as to whether the well

is to be drilled as a straight hole or as a directional well and, if the latter, the general plan of deviation;

- (e) A general but accurate summary, including drawings where necessary, to indicate:
    - (i) The surface equipment and installations contemplated during the drilling stage (including temporary installations); and
    - (ii) All surface equipment (i.e., equipment located at or above the floor of the lake) that will be installed and maintained if the well is completed as a producer, including any and all pipeline connections to the well insofar as possible;
  - (f) A general but accurate statement as to anticipated time of commencement and duration of drilling, testing and completion procedures (including any unusual circumstances).
- (2) All applications for permits to drill a well shall have attached thereto the following:
- (a) Certified or photostatic copy of all pertinent oil and gas leases and assignments thereof, with recording data, showing the applicant to be the owner of all or part of the mineral leasehold working interest under that particular state lease tract;
  - (b) Copies of all permits or authorizations for the particular well granted by other governmental agencies, or applications therefor that are pending;
  - (c) A copy of the spill prevention control and countermeasure plan (SPCC), and any amendments thereto, prepared to conform to the requirements of the Code of Federal Regulations, Title 40, Part 112;

- (d) A certified sounding from a registered surveyor showing the lake-bottom profile at the proposed location of the well and appurtenant structures, if shell mats or pads are proposed or any other elevation of the existing lake bottom, and providing the exact coordinates of the proposed well;
  - (e) A memorandum copy of each insurance policy that the applicant has in force complying with the provisions of section 15-76 and a copy of a bond (or indemnity agreement in lieu thereof) complying with the provisions of section 15-77;
  - (f) With respect to applications covering wells to be drilled in Sabine Lake, as defined in subsection 15-51(a), a copy of the certificate required by section 15-70.
- (3) Each application for a permit to drill a well shall contain an agreement by the applicant to allow the lessee of state lease tracts adjacent to the applicant's cluster area to drill wells from a surface location in said cluster area to a bottom hole location on the adjoining state lease tract, and to place the surface structure for such well within the applicant's cluster area, to the extent that applicant has the power to do so; provided that such lessee shall agree to indemnify the applicant for any damage caused by such lessee, and further provided that the applicant or other lessees have not utilized all of the locations within the applicant's cluster area prior to the time that such lessee notifies the applicant of his desire to drill.
- (B) *Production platforms.*
- (1) All applications for a permit to erect and maintain a production platform shall contain the following information:
    - (a) The names of all parties who will own an interest in the production platform;



- (b) The name of the contractor who shall construct the platform, if same be a different party than the applicant. If the name of the contractor is not known at the time the application is made, the name of the contractor shall be furnished to the director before construction is [begun];
  - (c) The proposed location of the production platform;
  - (d) The names of all lessees of state leases within a three-mile radius of the proposed location of the production platform.
- (2) All applications for a permit to erect and maintain a production platform shall be accompanied by the following:
- (a) Adequate evidence of applicant's authority to place a production platform at the proposed location;
  - (b) A memorandum copy of each insurance policy that the applicant has in force complying with the provisions of section 15-76 and a copy of a bond (or indemnity agreement in lieu thereof) complying with the provisions of section 15-77;
  - (c) A plat of the proposed location of the production platform reflecting lease ownership and well surface structures within a three-mile radius of such location;
  - (d) Drawings, sketches, or blueprints accurately reflecting the dimensions of the production platform and the equipment to be placed thereon;
  - (e) A general but accurate statement as to the purpose of the platform, and the activities to be carried out thereon;
  - (f) A copy of the spill prevention control and countermeasure plan (SPCC), and any amendments thereto, prepared to conform to the requirements of the Code of Federal Regulations, Title 40, Part 112;

- (g) A general but accurate statement as to the terms and conditions upon which production other than that owned by the applicant will be handled through the production platform;
- (h) A certificate that applicant has given written notice of the application for such a permit to each lessee of a state lease tract located within the three-mile radius of the proposed location of such production platform.

- (3) All applications for a permit to erect and maintain a production platform shall contain an agreement by the applicant to comply with the provisions of section 15-62(f).

(C) *Other permits; temporary permits.* All applications for permanent permits for any purpose not otherwise covered hereunder and all applications for temporary permits shall contain full information as to the nature and purpose of the activity for which such permit is requested and a full statement describing all structures and equipment to be covered by such permit, and shall be accompanied by such of the items specified in paragraph (2) of subsection (A) of this section as may be pertinent to the application.

(D) *Materials previously furnished.* If any information, exhibit, or other material required herein has previously been furnished to the city, such requirement shall be satisfied by reference to the city file number in which such information, exhibit, or other material is contained. (Ord. No. 78-29, § 17(17.3)—(17.8), 4-3-78)

#### **Sec. 15-73. Action upon permit application.**

Upon receipt of a properly submitted application for any permit hereunder, in triplicate, the Pleasure Island Director shall set up a permanent record and file thereon, and shall forward one (1) copy of the application and all materials submitted therewith to the chairman of the Pleasure Island Commission, each of whom shall promptly review the application. In the event that the position of director is not

filled or the director is absent or otherwise incapable of carrying out his duties as imposed herein, all applications for permit shall be submitted directly to the chairman of the Pleasure Island Commission, who shall in such case act as the director in processing the application hereunder.

- (1) If the director finds that the application is for a regular location of a well and is in all things in full compliance with the requirements of this article, he shall within fifteen (15) days after receipt submit to the commission his written report certifying to such facts and recommending approval, and a copy of the report shall contemporaneously be delivered to each member of the commission. If the chairman agrees, he shall so promptly notify the commission in writing. If the chairman so agrees, or if the chairman does not submit to the council, within five (5) days after receipt of the director's report, a written statement that he or the commission does not agree with the conclusion and/or recommendation of the director, the council shall approve the application at its next regular or called meeting unless the council shall itself disagree with such conclusion and/or recommendation. In the event of any such disagreement with the director's recommendation of approval, the applicant shall be promptly notified and, if the objections are not cured or removed otherwise, the application shall be further processed as provided hereafter for applications for exceptional location of a well.
- (2) Applications for types of permits required hereunder other than for a regular location of a well, which present on their face situations of routine compliance herewith (but not including applications for exceptional location of a well or for construction of a platform), may be processed as provided in paragraph (1) above.
- (3) All applications for permits not processed as provided in paragraphs (1) and (2) shall be processed as follows:

- (a) The director shall, within fifteen (15) days after receipt of an application, submit to the commission his written report on the application including any recommendation for its disposition or further handling as to him appears proper, a copy of which shall be contemporaneously delivered or mailed to the applicant. At the request of the applicant or any other interested party, the commission shall, or upon its own motion may, within ten (10) days after its receipt of the director's report hold a hearing on any application for a permit at which any interested party shall be allowed to submit to the commission any written statement or evidence and shall be afforded a reasonable opportunity to present oral testimony or other pertinent evidence to the commission. All proceedings before the commission shall be orderly, but formal rules of procedure and evidence (including the cross-examination of witnesses) normal in court proceedings shall not be followed except to the extent permitted or required by the commission. At the request of any applicant, a written record of the proceedings of any such hearing shall be kept, provided that the applicant shall pay all cost and expense of making such record.
- (b) Not later than thirty (30) days after receiving the written report of the director or after receipt of an application without such report, the commission shall make a written recommendation to the council as to whether the application should be granted, denied, modified, or otherwise disposed of. All written materials, statements, proceedings had in public hearings, and the report of the director shall be transmitted to the council with such recommendation. A true copy of said recommendation shall be delivered to the applicant, who shall have five (5) days within which to file with the city secretary a written protest to the

council of the commission's recommendation, setting forth therein the grounds for any objection. The failure to file any such objection to the recommendation of the commission shall be deemed to be a waiver of any objection by the applicant. Upon the filing of said recommendation by the commission and of said objection, if any, by the applicant, or upon the failure of the commission to make such recommendation to the council within the 30-day period herein provided for, the council shall promptly act upon the application for permit. Except in instances in which the applicant has failed to provide information required hereby and in which the council determines that additional information pertaining to such application should be furnished, the council shall take final action upon such application not later than thirty (30) days after such application properly comes before the council. The council may act upon the basis of the written recommendation and other reports submitted to it; provided, however, that the council may in its discretion order such further or additional hearings before the commission or before the council as it may deem appropriate.

Regardless of any time period suggested or prescribed herein, no inaction or failure to act by the council shall constitute its action or approval by default. (Ord. No. 78-29, § 18(18.1)—(18.7), 4-3-78)

**Sec. 15-74. Permit issuance; term; transfer; amendment.**

(a) *Issuance.* Any permit issued hereunder shall be issued over the signature of the city manager under the authority of the council. The permit shall be in duplicate, with one (1) counterpart to be delivered to the permittee after the permittee has executed an acceptance and the other counterpart to be retained by the Pleasure Island Director.

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(b) *Term.* Any permit other than a temporary permit shall be termed and referred to as a permanent permit.

- (1) The term of a temporary permit shall be for such period as prescribed therein, but not to exceed a period of six (6) months.
- (2) The term of a permanent permit shall be for a period of one (1) year within which to commence work thereunder; however, in the case of a permit to drill a hole in search of oil and/or gas, such drilling shall be commenced within sixty (60) days of the placement of any related surface structure in the waters of Sabine Lake; said 60-day period [is] to be automatically extended if forces beyond the reasonable control of the lessee prevent the commencement of drilling within said period, provided that before the expiration of said period, lessee shall notify the director of its inability to comply with said 60-day provision and the reasons therefor. Otherwise, a permanent permit shall continue in force as long thereafter as the use of the facility for which the permit is granted shall not be abandoned or, in the case of a permit to drill a hole in search of oil and/or gas, as long thereafter as the permittee is engaged in continuous drilling operations, or oil, gas, or other hydrocarbons are produced (or capable of being produced) from the well pursuant to such permit.
- (3) The permit for any nonproducing well will expire on the anniversary date next following completion of a dry hole or on the anniversary next year after any well has ceased to be classified by the Railroad Commission of Texas as a "producing well," unless the well is actually being used for disposal purposes or secondary recovery projects under written permission granted by the Pleasure Island Director.

Upon expiration of any well permit, the well shall be abandoned and the owners will effect abandonment within sixty (60) days of the expiration date. If the owners of any well, whose permit is subject to expiration, feel that the need

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of such well is required or will be required for production, disposal, or secondary recovery purposes, then application may be made to the commission's office for an extension of the permit for use thereof for disposal purposes or secondary recovery. The director will review the application within fifteen (15) days of receipt of such application and make his recommendation to the commission. If the commission finds that there is need for the well, then it will order the director to extend the permit for a one-year period. Subsequent extensions may be obtained by similar application and approval. Should the commission find that the need for such a well does not exist, then it will instruct the director to order the well abandoned within a 60-day period. If the owners of the well still disagree with the abandonment order, then they will have final recourse through appeal to the city council.

(c) *Transfer.* Any permit issued hereunder may be transferred, provided that the transferee meets all the requirements hereof, including the posting of insurance and bonds required herein. A notice of transfer shall be filed with the director. Within fifteen (15) days after such filing, the director shall notify the transferor and transferee whether or not the transfer meets the requirements hereof. The transferor shall nevertheless be liable for all obligations under the permit accruing prior to the effective date of the transfer.

(d) *Amendment.*

- (1) Any holder of an unexpired permit may, upon application, obtain an amended permit from the Pleasure Island Director for the purpose of changing bottom hole location, depth or direction of hole from the same surface location.
- (2) The holder of an unused, unexpired drilling permit may, upon application and payment of a service charge of two hundred dollars (\$200.00), obtain an amended permit from the director for the purpose of changing the surface location from one regular or exceptional location to another regular location. Any

application for a change in surface drilling location to an exceptional location will be processed in accordance with subparagraphs (a) and (b) of paragraph 15-73(3). (Ord. No. 78-29, § 18(18.8)—(18.12), 4-3-78)

**Sec. 15-75. Acceptance of permit.**

The issuance of a permit and its acceptance by the permittee shall ipso facto bind and obligate the permittee, his or her executors, administrators, successors and assigns, for so long as any drilling, producing, processing, transporting, handling, treating or other operations are being conducted on or with reference to the permitted well or other facility as follows:

- (1) To maintain in force and effect a policy or policies of public liability and property damage insurance with the minimum coverages specified in section 15-76 and to furnish annually to the Pleasure Island Director current copies of policies of insurance and endorsements corresponding to those required;
- (2) To indemnify the city against, and to promptly pay the city for, all property damage of every kind and nature caused to property owned by the city that may arise because of willful or negligent acts of permittee or the failure of permittee to comply with the provisions of this article;
- (3) To fully comply with all of the terms and requirements of the permit and this article and all other applicable ordinances of the city, as any of the same may be amended from time to time, and to fully comply with all applicable requirements of federal and state laws and of all federal and state regulatory bodies having jurisdiction;
- (4) To conduct all operations relative to the purpose for which the permit is obtained with adequate rigs, tools, machinery, and equipment, employing recognized procedures in a prudent manner so as to provide maximum protection and safeguards against possible



injury to persons or damage to property, public or private; to prevent blowout, cratering, fire, explosion, surface property damage, pollution or contamination of the waters of the lake and hazards to navigation.

- (5) To designate a competent representative who shall be responsible for the supervision of drilling operations and the carrying out of the conditions of any permit and the terms and requirements of this article. Such representative shall be available at all times during drilling, production or other operations and shall be the responsible contact agent of the permittee whom the Pleasure Island Director may require to carry out the provisions of the permit. (Ord. No. 78-29, § 19(19.1), 4-3-78)

#### **Sec. 15-76. Insurance.**

The holder of any permit issued hereunder shall obtain and maintain in force a policy or policies of public liability and property damage insurance issued by a reliable insurance company or companies authorized to do business in Texas and having a policyholder rating of "Excellent" or better and financial rating of "BBBB" or better according to the ratings issued by the Best's Insurance Guide, insuring the permittee against claims for bodily injury and property damage that might be sustained by the city or any member of the public by reason of any operations conducted under said permit, with coverage limits for bodily injury or death to one (1) person not less than three hundred thousand dollars (\$300,000.00) and not less than one million dollars (\$1,000,000.00) for any one (1) accident, and for property damage of not less than one million dollars (\$1,000,000.00) for any one (1) occurrence, with endorsements to said policy running to the city for the benefit of it and members of the public. In addition, the holder of any permit issued hereunder shall obtain and maintain in force a policy or policies of blowout or cost-of-well-control insurance in an amount not less than one million dollars (\$1,000,000.00) for each well. The permittee shall also execute an agreement with the city to hold the city harmless from any and all

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liability arising out of the granting of, or the permittee's operations pursuant to, the permits herein described. The permittee shall insure performance of this indemnity agreement by having contractual liability insurance in amounts of public liability. Each policy of insurance shall contain a provision obligating the insurer to give the director written notice of cancellation, not less than thirty (30) days prior to the date of cancellation. The form of the foregoing policies of insurance as to coverage and amount and the form of the indemnity agreement referred to above shall be approved by the city attorney. (Ord. No. 78-29, § 14(14.1), 4-3-78)

#### **Sec. 15-77. Bonds.**

The holder of any permit issued hereunder shall post a corporate surety bond in the sum of thirty thousand dollars (\$30,000.00), executed by the permittee, as a principal, and by a surety company acceptable to the city, as surety, and conditioned that the principal named in the bond shall faithfully comply with all of the provisions hereof and of the permit until said permit shall have been released by the principal and the release shall have been approved by the city as provided herein. Such bond shall secure the city against all costs, charges and expenses incurred by it for reasons of failure of the principal to duly comply with the provisions of the permit and of this article. In lieu of a bond for each permit held:

- (1) Any permittee may post a blanket bond covering all permits issued to the permittee hereunder in the sum of one hundred thousand dollars (\$100,000.00), which shall be conditioned in the same manner aforesaid; or
- (2) In the sole discretion of the council, a permittee may be allowed to post an indemnity agreement with the city conditioned in the same manner as a bond required hereunder if such permittee files a balance sheet and statement certified by a recognized firm of certified public accountants reflecting the net worth of a permittee to be in excess of ten million dollars (\$10,000,000.00). (Ord. No. 78-29, § 15(15.1), 4-3-78)

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**Sec. 15-78. Display of permittee name, permit number.**

All surface structures, production platforms, and other facilities for which a permit is issued hereunder shall have affixed thereto a sign made of some permanent material, which shall reflect the name of the permittee and the number of the permit issued therefor conformable to the requirements of the Railroad Commission of Texas. (Ord. No. 78-29, § 22(22.1), 4-3-78)

**Sec. 15-79. Annual report of permit.**

On or before the first day of August of each year, every holder of a permit or permits issued hereunder, or issued under any other ordinance or previous ordinances pertaining to the area covered by this article, shall file with the director a report listing by number each and every permit held by the holder and currently in use. (Ord. No. 78-29, § 23(23.1), 4-3-78)

**Sec. 15-80. Relinquishment of permit.**

In the event of abandonment of a well or the permanent cessation of use of a production platform, or other structure or facility for which a temporary or permanent permit has been issued hereunder, such permit shall be relinquished by the parties to whom it was granted or transferred. The permittee shall promptly notify the director in writing whenever such permit should be relinquished under the provisions hereof. The director (or any inspector, consultant or contractor or other official duly authorized hereunder) shall forthwith make an inspection to determine if all requirements and provisions hereof have been complied with, and if so found, then the city manager shall issue a release to the holder of such a permit and such permittee, as well as his sureties, shall thereafter be relieved of all obligations hereunder (except that the permittee and sureties shall not thereby be relieved of obligation with respect to any legal cause of action which may have accrued prior thereto in favor of the city or any other person, until the

applicable statute of limitation shall have barred any such cause of action). (Ord. No. 78-29, § 21(21.1), 4-3-78)

#### **Sec. 15-81. Right of access of officials.**

(a) The Pleasure Island Director, or any duly authorized official, representative, consultant, contractor or employee of the city shall have the right of access for purposes of inspection at all reasonable times to any drilling location, surface structure, production platform or other structure, equipment or facility for which a permit is required or issued hereunder.

(b) Upon request by any duly authorized official, representative, consultant, contractor or employee of the city, any lessee or permittee shall furnish such geological data as lessee files with the Railroad Commission of Texas. (Ord. No. 78-29, § 13(13.1), (13.2), 4-3-78)

#### **Sec. 15-82. Inspections.**

(a) *Completed structures and facilities.* Each well, production platform, or other structure or facility for which a permanent or temporary permit has been issued and is still in effect shall be inspected, insofar as it is feasible to do so, at least annually by the Pleasure Island Director (or by an inspector or other employee, consultant or contractor of the city designated pursuant hereto) and at such other times as may be directed by the council or the commission.

- (1) If the director (or other properly designated official, consultant or contractor) shall find that no violation hereof, of the applicable permit, or of other regulation has occurred, he shall so certify to the commission and the council.
- (2) If the director (or other properly designated official, consultant or contractor) shall find a violation hereof, of the applicable permit, or of any other regulation, he shall make a report specifying such violation to the commission and the council.

(b) *Locations prior to commencement of drilling.* The location of any well for which a permit is granted hereunder may be inspected prior to the commencement of drilling by the director (or other official, employees, consultant or contractor duly authorized hereunder) if deemed advisable, in which case he shall certify that such location is in compliance with the applicable permit and this article. (Ord. No. 78-29, § 20(20.1)—(20.4), 4-3-78)

**Sec. 15-83. Violations and penalties; other remedies; election of remedies.**

(a) *Violations.* It shall be unlawful and an offense for any person to violate or fail to comply with any provision of this article or any provision of a permit issued hereunder. Any violation or failure to comply with the laws of the State of Texas, or any rule, regulation, or requirement of any state or federal regulatory body having jurisdiction with respect to drilling, completing, equipping, operating, producing, or abandoning an oil or gas well or related appurtenances, equipment or facilities or with respect to the storage and transportation of oil, gas, or other hydrocarbons, or in reference to fire protection, blowout protection, safety protection, water or lake pollution, or navigation shall also be unlawful and an offense hereunder.

(b) *Fine; revocation of permit.* Any person who shall do or perform an unlawful act or commit an offense as specified in subsection (a) hereof shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be fined in any sum not less than five dollars (\$5.00) and not more than two hundred dollars (\$200.00); and the violation of each separate provision, law, rule, regulation, and requirement shall be considered as a separate offense, and each day's violation of each separate provision, law, rule, regulation, and requirement shall be considered a separate offense.

In addition to the foregoing penalties, it is further provided that the council, at any regular or special meeting thereof, may revoke any permit issued hereunder in the event that the permittee has intentionally or repeatedly done

or performed an unlawful act or committed an offense as specified herein; provided that if the violation is such as could be remedied by permittee, the permit shall not be revoked unless permittee has been notified in accordance with subsection (c) hereof and has thereafter failed or refused to remedy such violation, and further provided that ten (10) days' notice shall be given to the permittee that revocation is to be considered at such a meeting. In the event the permit is revoked, the permittee may make application to the council for reissuance of such a permit.

(c) *Remedial action by city to cure violation.* In addition to all other penalties provided herein, any violation of the provisions hereof which may be cured by remedial action shall be remedied by the person committing such violation within ten (10) days after notification of the specific remedial action required by the council; and upon failure of such person to take the action required in the notification by the council, the council may direct any official or agency of the city to do so and perform all such remedial action at the sole cost and expense of the person committing such violation, and such person shall immediately reimburse the city for all costs so incurred upon notification thereof.

(d) *Injunction.* In addition to any other penalty provided hereby, the council may direct the city attorney to institute an action in any court having competent jurisdiction to enjoin any violation of the provisions hereof or for an injunction to compel compliance with any provision thereof.

(e) *Election of remedies.* The penalties and remedies provided herein for violations of this article shall be cumulative, and nothing herein contained shall be deemed to require the council, or any officer or employee of the city, to elect or pursue one penalty or remedy hereunder to the exclusion of any other remedy or penalty for which provision is herein made, or to the exclusion of any remedy at law or in equity, nor shall any action taken or caused to be taken by the council, or any officer or employee of the city, be construed to be such an election. (Ord. No. 78-29, § 25(25.1)—(25.5), 4-3-78)

Secs. 15-84—15-93. Reserved.

#### ARTICLE IV. OFFSHORE DRILLING\*

##### Sec. 15-94. Applicability.

This article shall apply to those water areas zoned Offshore Water (OW), as established by Ordinance No. 73-77 (the Zoning Ordinance), as amended, and within the boundaries of the city, as such boundaries may exist from time to time. This article shall specifically exclude those areas to which article III of this chapter are applicable. (Ord. No. 81-95, § 1 (Exhibit A, § 15-84), 12-14-81)

##### Sec. 15-95. Definitions.

The following words or terms wherever used or appearing herein, either in the singular or plural form, shall have the scope and meaning here indicated, unless the context clearly indicates otherwise:

*Applicant* means any person who applies for a permit under the provisions of this article.

*Directional well* means a well intended to be drilled from the surface to the bottom thereof with some portion of the hole having a deviation of more than five (5) degrees from the vertical.

*Existing well* means a well in the process of being drilled under lawful permit, authorized by the council, or a completed well producing or capable of producing oil or gas in paying quantities on the effective date of this article.

*Lessee* means any person who owns all or part of an oil or gas lease subject hereto, or who has obtained the right from the owner of such a lease to conduct operations in search of oil and/or gas underlying such lease.

*Mayor, city manager, city council, and city secretary* refer to those of the City of Port Arthur, unless otherwise expressly indicated.

*Permit* means a permit granted pursuant to this article.

\*Cross reference—Zoning, App. F.

*Permittee* is any person holding a permit granted under this article.

*Person* shall include any natural person, persons or group of persons whether acting individually, in concert, or in any representative capacity, and any partnership, private or public corporation, trust, estate, agency, trustee, executor, administrator, receiver, agent, or other legal entity.

*Relief well* means a well drilled or adapted under the emergency circumstances arising in connection with an existing well to correct or safeguard against unexpected and inherently hazardous conditions.

*State lease tract* means the entire surface and subsurface area included and embraced within a single-numbered state lease tract as shown on the official maps on file in the General Land Office of the State of Texas.

*Straight well* means a well intended to be drilled from the surface to the bottom thereof with no portion of the hole having a deviation of more than five (5) degrees from the vertical.

*Well* means any hole, excavation, or bore made downward from the surface to extend two hundred (200) feet or more into the subsurface, by any means or manner, for the purpose of exploring for, discovering, producing, injecting or reinjecting oil, gas, or any other minerals including, without limitation, sulphur, salt, any form of hydrocarbon, distillate, waste, and fresh or salt water. (Ord. No. 81-95, § 1 (Exhibit A, § 15-85), 12-14-81)

#### **Sec. 15-96. Compliance.**

No operation for production, treating, transporting, or for exploring, drilling or reworking shall be conducted in the area defined in section 15-94 above except as provided herein. (Ord. No. 81-95, § 1 (Exhibit A, § 15-86), 12-14-81)

#### **Sec. 15-97. Existing facilities.**

This article is prospective in its effect. All wells and all equipment, structures, or installations in existence upon the effective date hereof within the area defined in section 15-94 and for which



no permit has been issued hereunder, shall be deemed to be permitted hereunder and the owner and operator is deemed to be the holder of a permit duly issued and accepted hereunder for all purposes. Except as otherwise particularly required hereunder, or as may hereafter be particularly required by the council in the implementation of regulations hereunder, no application for issuance of a formal permit is required as to such existing facilities. But any and all other requirements hereof as to permits and permittees shall apply, and the council may hereafter require application for and issuance of a formal permit for any such existing and heretofore nonpermitted facility. In such case, the application and permit may cover more than one subject matter and no fees shall be required. (Ord. No. 81-95, § 1 (Exhibit A, § 15-87), 12-14-81)

**Sec. 15-98. Compliance with zoning, building ordinances, etc.**

(a) It is hereby determined by the council that any well, structure, facility or installation as herein regulated shall, if permitted by a permit duly issued and subsisting hereunder, in no way be considered in violation of the zoning ordinance of the city or to require compliance with the building code.

(b) This article shall not be construed as repealing, altering, or otherwise affecting the validity and binding force of any ordinance pertaining to fire prevention, health, sanitation, or safety of persons or property heretofore enacted by the city, except as specifically repealed hereby. (Ord. No. 81-95, § 1 (Exhibit A, § 15-88), 12-14-81)

**Sec. 15-99. Article does not grant the right to use public property.**

This article shall not be considered as granting any franchise or easement for the subsurface use of any public-owned property or easement within the city or of any use of any public-owned property or easement outside the city. (Ord. No. 81-95, § 1 (Exhibit A, § 15-89), 12-14-81)

**Sec. 15-100. Right of access to premises.**

The director of public services, or any duly authorized official, representative or employee of the city, shall have the right of access upon due notification, for purposes of inspection at all reasonable times, to any drilling location, surface structure, or other facility for which a permit is required or issued hereunder. (Ord. No. 81-95, § 1 (Exhibit A, § 15-90), 12-14-81)

**Sec. 15-101. Nonexclusivity of regulations.**

All regulations and prohibitions herein imposed shall be in addition to the regulations of all other federal or state regulatory bodies having jurisdiction, including, but not limited to, the Railroad Commission of Texas, the commissioner of the General Land Office of Texas, the Parks and Wildlife Commission of Texas, the United States Army Corps of Engineers, the United States Coast Guard, and any other department of the United States Government. (Ord. No. 81-95, § 1 (Exhibit A, § 15-91), 12-14-81)

**Sec. 15-102. Drilling operations within one mile of the coast.**

(a) *Restrictions generally.* Subject only to the other provisions of this section, no well other than an existing well shall be drilled, operated or produced from any surface location within one mile of the line of mean high tide as that line exists on the effective date hereof within the area designated by section 15-94. No derrick, platform, rig, piling, tank, pump, Christmas tree, wellhead connection, or any other equipment of any nature whatsoever (except buried pipelines subject to article II of this chapter) used in the drilling, production, storing, processing or treating of oil, gas or other minerals shall be operated for such purposes within the area designated hereabove after the effective date of this article. No permit hereunder shall be issued for any such purpose, provided that the council may grant exceptions to this section upon application for a permit hereunder and an affirmative showing by the applicant that the requested exemption is necessary to prevent confiscation of property. The term "confiscation of property" as used in this instance shall not be deemed to exist unless it is established by the applicant that:

- (1) Use of a surface location outside of this area, whether on water or on land, renders it physically impossible to make a bottom hole completion within such area;
- (2) Pooling or unitization of the minerals alleged to be confiscated will not eliminate the need for such a well or, if pooling or unitization would so eliminate the necessity for the well, that good-faith efforts by the applicant to so pool or unitize on a reasonable basis had been made by the applicant and failed; and,
- (3) Applicant is suffering loss through uncompensated drainage of its lease, or is in imminent danger of losing its lease.

(b) *Relief wells.* Drilling of a relief well from a location in the designated area may be commenced without first securing a permit if such action is deemed necessary in the good-faith opinion of the lessee. Lessee shall make all reasonable efforts to notify the director of public services by telephone as soon as feasible, but failure to make such notification shall not be deemed a violation of this article. Within twenty-four (24) hours after the commencement of operations for the drilling of such a relief well, the lessee drilling the same shall notify the director of public services that such operations have been commenced, stating fully the reasons therefor; and such lessee shall within fourteen (14) days after such commencement of operations make application for a permit to drill said well as elsewhere provided herein. The lessee drilling such relief well shall also furnish promptly any information with respect to such relief well as may be requested from time to time by the council, the director of public services or any authorized official or employee of the city. No such well drilled as a relief well under the provisions of this section shall be completed as a producing commercial well unless a permit therefor shall have been issued in the same manner as is required for the drilling of any other well. Any relief well not completed as a producing well within six (6) months after cessation of drilling operations, unless an extension is obtained from the city council, shall be plugged and abandoned. Extensions not exceeding a six-month period may be granted by the city. (Ord. No. 81-95, § 1 (Exhibit A, § 15-92), 12-14-81)

**Sec. 15-103. Drilling operations at a distance greater than one mile from the coast.**

(a) *Restrictions generally.* No rig, platform, piling structure, derrick, tank, Christmas tree, pipe, tube, meter, separator or any other equipment whatsoever used in the drilling or operations of a well or in the production, treating or storing of oil, gas or other minerals shall be erected, constructed, installed or maintained, operated or allowed to exist in the area covered by this section except as permitted by this article. No barge, rig, boat or ship shall be moored, anchored or sunk in place in the area covered by this section for the purpose of drilling or operating a well or of producing, processing, treating or storing oil, gas, or other minerals except as permitted herein.

(b) *Temporary operations.* Any item or thing enumerated in paragraph (a) hereof may be situated in the area covered by this section for a period not to exceed six (6) months, provided a temporary permit therefor be obtained as prescribed by section 15-113 and section 15-114 hereof prior to the commencement of erection, construction, installation, or emplacement thereof. Such temporary permit shall be limited to such period of time as the applicant therefor may request or as may be determined to be reasonably necessary to accomplish the purpose for which such permit is requested, but in no event shall such permit be valid for a period in excess of six (6) months. Any such item or thing allowed under a temporary permit shall be removed prior to the expiration of the period for which such permit is granted. No permit shall be necessary with respect to any rig, barge, piling or other structures or equipment used in the drilling, completing, reworking, cleaning, repair or testing of a well for which a valid and subsisting permit shall have been issued hereunder.

(c) *Relief wells.* No wells shall be drilled without a permit duly issued and subsisting hereunder, provided that the drilling of a relief well may be commenced without first securing a permit if such action is deemed necessary in the good-faith opinion of the lessee. Lessee shall make all reasonable efforts to notify the director of public services by telephone as soon as feasible of the drilling of such relief well, but the failure to make such notification shall not be deemed a violation of this article; within twenty-

four (24) hours after the commencement of operations for the drilling of such a relief well, the lessee drilling the same shall notify the director of public services that such operations have been commenced, stating fully the reasons therefor, and such lessee shall within fourteen (14) days after such commencement of operations make application for a permit to drill said well as elsewhere provided herein. The lessee drilling such relief well shall also furnish promptly any information with respect to such relief well as may be requested from time to time by the council, the director of public services or any authorized official, consultant, contractor or employee of the city. No well drilled as a relief well under the provisions hereof shall be completed as a producing well unless a permit therefor as for any well in the gulf area shall have been issued in the same manner as is required hereunder for the drilling of any other well. In connection with any such permit, an exception to the provisions of subsection 15-102(a) may be granted by the council if the council determines that:

- (1) A well surface location not conforming to the provisions of paragraph (a) is necessary in order to complete such relief well as a producing well; and,
- (2) The denial of such permit would work an undue economic hardship on the applicant.

Any relief well not completed as a producing well shall be plugged and abandoned within six (6) months of cessation of drilling operations unless an extension is obtained from the city council.

(d) *Plugging, abandoning wells.* Any permit issued for the drilling of a well shall be deemed to cover and include all rigs, barges, pilings, structures and equipment used in drilling, testing and completing such well. If a well is completed as a dry hole or if a well used as an injection well or for other purposes ceases to be so used, and any such well is abandoned because it is not suitable for any use within the reasonable future, then the well shall be plugged and abandoned in accordance with the laws of the state, the rules of the Railroad Commission of Texas, and/or any other agency having jurisdiction in connection with the abandonment or plugging of such well. (Ord. No. 81-95, § 1 (Exhibit A, § 15-93), 12-14-81)

**Sec. 15-104. Seismic surveys.**

(a) No geophysical work shall be conducted except upon proper application and the payment of a two hundred dollar (\$200.00) fee. A proper application will include the following:

- (1) A letter of application requesting a geophysical permit. The letter shall set out the system to be employed, when it is intended to begin the work, and also the anticipated date of completion. A statement shall also be made relieving the city of any liability for damages which may result from that operation performed by the applicant;
- (2) A copy of a valid and subsisting public liability insurance policy; and,
- (3) A plat outlining the areas proposed to be covered by the survey.

(b) When the above is properly submitted, the director may issue a permit to conduct such seismic or geophysical work if, by his determination, this work will not create a public nuisance nor be contrary to the public safety. The determination shall include consideration of the following factors.

- (1) The location of the point relative to surrounding improvements and the distance of point of exploration from the nearest mean high tide shoreline;
- (2) The quantity and nature of the proposed seismic source to be used in implementing the exploration; and,
- (3) The pendency of other activities of the gulf at and adjacent to the point of exploration.

(Ord. No. 81-95, § 1 (Exhibit A, § 15-94), 12-14-81)

**Sec. 15-105. Production platforms.**

(a) *Permit required; definition; design requirements.* No production platform or facility shall be erected, constructed, installed, maintained, operated, or allowed to exist without a permit duly issued or subsisting hereunder. As used in this section "production platform or facility" shall mean any structure (other than a well surface structure) which holds or contains equipment for the

handling, processing or treatment of oil, gas or other hydrocarbons, or any aggregation of equipment and facilities designed and constructed to withstand winds and tides of hurricane force.

(b) *Storage capacity.* No storage of oil, gas, or petroleum products shall be allowed other than that required for normal operation on a production platform.

(c) *Approval of proposed locations.* The proposed location of any production platform for which a permit is requested must be approved by the council, which approval shall be signified by the issuance of a permit setting forth the location for such production platform. In determining the location of production platforms hereunder, the city council shall consider the effect of the type of proposed facilities upon the public health, safety and general welfare. (Ord. No. 81-95, § 1 (Exhibit A, § 15-95), 12-14-81)

#### **Sec. 15-106. Pipelines.**

No pipeline for the purpose of gathering, flowing, or transmitting oil, gas, products, hydrocarbons, or any other substance shall hereafter be laid, relaid, moved, maintained, or operated in the area covered by this article except as permitted under article II of this chapter 15 and as authorized by the United States Corps of Engineers. (Ord. No. 81-95, § 1 (Exhibit A, § 15-96), 12-14-81)

#### **Sec. 15-107. Pollution controls.**

(a) *Requirements generally.* All operations subject to regulation hereunder shall be conducted in strict compliance with all ordinances of the city, all laws, rules, and regulations of other governmental agencies having jurisdiction relating to pollution or contamination.

(b) *Discharge of pollutants.* All facilities must be operated and maintained to provide for the disposal of saltwater or other production waste materials and no crude oil or petroleum product or the materials associated with production shall be permitted to escape or accumulate in any manner which creates a potential fire hazard or which may pollute water, damage land or exceed the acceptable level of air pollution.

(c) *Equipment standards.* Equipment shall be constructed, operated and maintained so that there will be no excessive noise, vibration, odor, glare or other harmful, dangerous or annoying substances or effects therefrom which can be eliminated or reduced by the use of modern, approved equipment. (Ord. No. 81-95, § 1 (Exhibit A, § 15-97), 12-14-81)

**Sec. 15-108. Painting and lighting of structures.**

(a) *Painting.* All parts of well surface structures located above the water in the area covered hereunder and composed of materials generally painted shall be painted in accordance with customary industrial standards and shall be repainted at sufficiently frequent intervals to maintain same in good conditions. All production platforms and other structures located above water in the area covered by this article and composed of materials generally painted shall be painted in accordance with customary marine industrial standards and shall be repainted at sufficiently frequent intervals to maintain same in good conditions.

(b) *Lighting.* All production platforms and other surface structures shall be lighted in accordance with applicable department of transportation or Coast Guard "Aid to Navigation" standards. (Ord. No. 81-95, § 1 (Exhibit A, § 15-98), 12-14-81)

**Sec. 15-109. Signs and advertising generally.**

No sign, poster, advertisement, light, or beacon shall be affixed to or placed about any surface structure, production platform or other structure, equipment or facility for which a permit is issued hereunder except for such signs, lights, and warning devices as may be required by this article or by any other regulatory authority having jurisdiction. (Ord. No. 81-95, § 1 (Exhibit A, § 15-99), 12-14-81)

**Sec. 15-110. Removal of facilities.**

(a) *Well surface facilities.* All well surface structures or other equipment appurtenant to a well, all production platforms, and all other structures, platforms, facilities, or equipment for which a permit has been issued by the city hereunder shall be removed



upon permanent abandonment within six (6) months by the party to whom the permit was issued or transferred; said six-month period to be extended only in accordance with subsection 15-116(b).

(b) *Shell mats, pads.* Shell mats or pads laid on the floor of the gulf, if determined by the director of public services to be a hazard to navigation or the environment, shall be removed within six (6) months of abandonment or shall be distributed over the floor of the gulf such that the bottom shall be no shallower than the previously existing natural bottom; said six-month period to be extended in accordance with subsection 15-116(b). (Ord. No. 81-95, § 1 (Exhibit A, § 15-100), 12-14-81)

#### **Sec. 15-111. Technical regulations.**

The council may, from time to time, issue such rules and regulations [as are] not inconsistent [here]with, but [are] in implementation thereof; copies of which shall be furnished to the director of public services. The following technical regulations are applicable to drilling operations regulated under this article:

- (1) No well shall be completed or operated in a sand or horizon which would result in surface shut-in pressure in excess of the working pressure of standard American Petroleum Institute wellhead equipment on the well.
- (2) Each well drilled or operated will be equipped with casingheads, tubingheads, and wellhead connections which conform to American Petroleum Institute standards. The casingheads shall have a working pressure of not less than three thousand (3,000) pounds per square inch. The tubingheads and wellhead connections shall have a working pressure in excess of the well's shut-in surface pressure. All wells with a surface shut-in pressure of three thousand (3,000) pounds per square inch or less shall be equipped with at least one master valve and one wing valve. All wells with a surface shut-in pressure in excess of three thousand (3,000) pounds per square inch shall be equipped with at least two (2) master valves and wing valves, one of which shall be the surface safety valve, and all connections upstream of the surface safety valve shall be flanged.

- (3) A surface safety valve shall be installed on all wells with a surface shut-in pressure in excess of three thousand (3,000) pounds per square inch.
- (4) All flowing wells shall be equipped with a subsurface safety valve (storm choke) installed in the tubing string, unless a tubingless completion is involved. This valve shall be pulled and inspected annually and more often if desired by lessee. However, in certain circumstances, due to pressure and flow in the well the subsurface safety valve (storm choke) requirements can be waived. In the event that the Railroad Commission of Texas issues an order which has the effect of authorizing the removal of such a subsurface safety valve, application can then be made to the director of public services for waiver of this requirement. Upon written request for waiver from the operator for a particular well, the director of public services shall evaluate the flow and pressure in that well, and using appropriate engineering guidelines to prevent pollution of offshore waters, he may waive the requirement for the subsurface safety valve (storm choke).
- (5) Each well drilled or operated will be equipped with tubulars that conform to American Petroleum Institute standards. The production string and the tubing string shall have a working pressure in excess of the well's shut-in pressure. The tubing shall be protected from well-effluent corrosion as required by internal coating and/or periodic chemical inhibitor injection.
- (6) Each well drilled will be equipped with blowout preventers from the time the surface casing is set. The minimum preventer stacks to be installed on the surface casing will consist of one set equipped with blanks, one set equipped with rams, and one Annular type. The minimum preventer stack to be installed on protection and subsequent casing strings will consist of one set equipped with blanks, one set equipped with rams, and one Annular type. The blowout preventers will be worked before each trip and pressure tested to the working pressure of the preventers or the working pressure of the casinghead, whichever is less

at the time of installation on each casing string, and once per week thereafter. A choke manifold will be installed with the blowout preventer stack and will have the same working pressure or greater. Blowout preventer closing lines and all manifolding shall be made of steel or industry-approved flexible hoses. A manual means for closing blowout preventers shall be installed.

- (7) Each well drilled will use a drilling fluid and/or procedure which will provide a hydrostatic head greater than the formation pressure expected to be encountered, or other recognized method to accomplish well surface pressure control.
- (8) Drill-stem tests may only be started during daylight hours. If a hydrocarbon well effluent is produced during the test, it will be flowed through an adequate separator to storage or flared. No liquid hydrocarbons shall be deposited in the waters of the gulf.
- (9) When any part of the area covered hereby is in the projected path of winds classified by the United States Weather Service to be of hurricane proportions, then at such time as the frontal edge is estimated to be not less than twenty-four (24) hours away all lessees operating in the area covered hereby shall immediately shut down all drilling and producing operations and all drill pipe shall either be laid down and securely fastened or left in the well hole. If possible, all oil storage tanks shall be emptied and, if feasible, filled with water for adequate weight.
- (10) Whenever any well is abandoned, it shall be the obligation of the operator to plug such well in accordance with the laws of the State of Texas, the rules of the Railroad Commission of Texas, and/or any other agency having jurisdiction in connection with the abandonment and plugging of such a well. The operator shall submit to the director of public services' office within seventy-two (72) hours of the plugging operation a notice of intent to plug and abandon, which will include the abandonment program and a request for release of permit. The director of public services or his designated representative shall be notified in writ-

ing by the permittee's duly authorized representative that he witnessed all abandonment operations and certifies that they were in accordance with the abandonment program. No permit will be released without said certification.

- (11) The movement of hydrocarbons from wells to storage shall be made in such manner as to prevent the escape of hydrocarbons. All flowlines leading from wells to production platforms shall be tested to two thousand (2,000) pounds per square inch water pressure or at least one thousand (1,000) pounds per square inch in excess of the anticipated working pressure of the line for all working pressures in excess of one thousand (1,000) pounds per square inch. All lines shall be placed in conformity with article II of this chapter and with the regulations of the United States Army Corps of Engineers. Each line shall be constructed from new or reconditioned pipe and, before it is submerged, shall be doped and treated in such a manner as to offer reasonable resistance to saltwater corrosion.
  - (12) All wells shall be cleaned, tested and produced in a manner to prevent pollution and utilize procedures and equipment that will eliminate or minimize any fire hazard.
  - (13) When a leak occurs in a pipeline or flowline, the flow of substance will be stopped as soon as possible after being detected, and will continue to be stopped until repairs have been effected in the most expedient manner to prevent pollution and hazard.
  - (14) All steel members of a production platform below the waterline will be cathodically protected.
- (Ord. No. 81-95, § 1 (Exhibit A, § 15-101), 12-14-81)

**Sec. 15-112. Emergency operations by lessee without first obtaining permit.**

(a) In the event that an emergency arises in the course of conducting its operations which, in the good-faith opinion of the lessee, constitutes a serious hazard to life and property, the lessee may undertake such emergency operations as the lessee deems necessary under the circumstances without limitation, [to include]

the intentional deviation of a well not originally intended to be deviated or other emergency operations. Such emergency operations shall not be considered a violation or offense hereof or of any other ordinance of the city.

(b) Within twenty-four (24) hours after the commencement of any such emergency operations, and as soon as practicable, but in any event within fourteen (14) days, the lessee shall file a written report with the director of public services setting forth a summary of the emergency and the actions taken by the lessee to combat it. (Ord. No. 81-95, § 1 (Exhibit A, § 15-102), 12-14-81)

**Sec. 15-113. Permit procedure generally; application required, filing fee.**

(a) All permits required hereunder shall be issued in the form prescribed hereunder, except as provided in section 15-97 for existing structures and facilities.

(b) No permit shall be issued except upon application by the owners of the property rights to which the permit relates. No application shall apply for more than one permit, and no permit shall cover more than one platform or other facility. All applications for permits shall be in the form prescribed herein and shall contain the information and exhibits required herein. Application forms shall be available in the office of the director of public services. All applications for permits shall be signed and sworn to before a notary public by the applicant or some representative of the applicant having due and legal authority to enter into contract binding upon the applicant. All applications for permits shall be filed in triplicate with the director of public services.

All applications for permits to drill a well or erect a production platform shall be accompanied by the filing fee of one thousand five hundred dollars (\$1,500.00); all applications for permanent permits for all other purposes and all temporary permits shall be accompanied by a fee of two hundred dollars (\$200.00). A fee paid for a temporary permit shall be credited on the fee charged for a permanent permit in the event a temporary permit is applied for conversion to a permanent permit. When the director of public services finds that the application has been properly submitted

and is ready for processing in accordance with section 15-115 and section 15-116 then the aforementioned filing fees will be deposited to the city's account. No refund is thereafter available to the applicant except in cases where the permit is denied by council action, in which event two hundred dollars (\$200.00) will be retained by the city as a service charge and the balance refunded to the applicant. (Ord. No. 81-95, § 1 (Exhibit A, § 15-103), 12-14-81)

**Sec. 15-114. Information, documentation for permit application.**

(a) *Well drilling permits:*

- (1) All applications for a permit to drill a well shall contain at least the following information:
  - a. The names and addresses of all owners of working interests in the well;
  - b. The name of the drilling contractor, if same be a different party than the applicant. If the identity of the drilling contractor is not known at the time that application is made, the name of the drilling contractor shall be furnished to the director of public services prior to the commencement of drilling operations;
  - c. The location from which the well is to be drilled, the approximate location of the surface structures appurtenant to the well; and the approximate bottom hole location of the well;
  - d. The vertical depth to which it is proposed that the well be drilled, a statement as to whether the well is to be drilled as a straight hole or as a directional well and, if the latter, the general plan of deviation;
  - e. A general but accurate summary, including drawings where necessary, to indicate:
    1. The surface equipment and installations contemplated during the drilling stage (including temporary installations); and,
    2. All surface equipment (i.e., all equipment located above the bottom surface) that will be installed and maintained if the well is completed as a pro-

ducer, including any and all pipeline connections to the well insofar as possible; and,

- f. A general but accurate statement as to anticipated time of commencement and duration of drilling, testing and completion procedures (including any unusual circumstances).
- (2) All application for permits to drill a well shall have attached thereto the following:
- a. Copies of all permits or authorizations for the particular well granted by other governmental agencies, or applications therefor that are pending;
  - b. If the identity of the drilling contractor is known at the time the application is made, a copy of the spill prevention control and countermeasure plan (SPCC), and any amendments thereto, prepared to conform to the requirements of the Code of Federal Regulations, Title 40, Part 112; but if the identity of the drilling contractor is not known at the time the application is made, a copy of the spill prevention control and countermeasure plan (SPCC), and any amendments thereto, prepared to conform to the requirements of the Code of Federal Regulations, Title 40, Part 112, shall be furnished to the director of public services prior to the commencement of drilling operations.

(b) *Production platforms:*

- (1) All applications for a permit to erect and maintain a production platform shall contain the following information:
  - a. The names of all parties who will own an interest in the production platform;
  - b. The name of the contractor who shall construct the platform, if the same be a different party than the applicant. If not known, the name of the contractor shall be furnished to the director of public services before construction is begun; and,
  - c. The proposed location of the production platform.
- (2) All applications for a permit to erect and maintain a production platform shall be accompanied by the following:

- a. Adequate evidence of applicant's authority to place a production platform at the proposed location;
- b. A memorandum copy of each insurance policy that the applicant has in force complying with the provisions of section 15-118 and a copy of a bond (or indemnity agreement in lieu thereof) complying with the provisions of section 15-119;
- c. Drawings, sketches, or blueprints (of the type submitted to the corps of engineers) accurately reflecting the dimensions of the production platform and the equipment to be placed thereon;
- d. A general but accurate statement as to the purpose of the platform, and the activities to be carried out thereon;
- e. Depending on whether the contractor is known at the time the application is made, a copy of the spill prevention control and countermeasure plan (SPCC), and any amendments thereto, prepared to conform to the requirements of the Code of Federal Regulations, Title 40, Part 112; and,
- f. A general but accurate statement as to the terms and conditions upon which production other than that owned by the applicant will be handled through the production platform.

(c) *Other permits; temporary permits.* All applications for permanent permits for any purpose not otherwise covered hereunder and all applications for temporary permits shall contain full information as to the nature and purpose of the activity for which such permit is requested and a full statement describing all structures and equipment to be covered by such permit, and shall be accompanied by such of the items specified in subsection (a)(2)b. of this section as may be pertinent to the application.

(d) *Materials previously furnished.* If any information, exhibit, or other material required herein has previously been furnished to the city, such requirement shall be satisfied by reference to the city file number in which such information, exhibit, or other material is contained. (Ord. No. 81-95, § 1 (Exhibit A, § 15-104), 12-14-81)



**Sec. 15-115. Action upon permit application.**

Upon receipt of a properly submitted application (applicant shall be notified of any deficiencies within five (5) days), the same shall be forwarded to the city manager and the city attorney for review. The city manager shall, no later than the first regular meeting day of the city council after the expiration of ten (10) days from the date of the filing of the application; present the application together with his own recommendation and the recommendation of the city secretary and city attorney, to the city council for action. The decision of whether or not to grant the application shall be within the city council's discretion, and shall not be subject to review. If no decision is made by the city council within fourteen (14) days from the date of presentation by the city manager, the application shall be deemed to have been denied. (Ord. No. 81-95, § 1 (Exhibit A, § 15-105), 12-14-81)

**Sec. 15-116. Permit issuance; term; transfer; amendment.**

(a) *Issuance.* Any permit issued hereunder shall be issued over the signature of the city manager under the authority of the council. The permit shall be in duplicate, with one counterpart to be delivered to the permittee after the permittee has executed an acceptance and the other counterpart to be retained by the director of public services.

(b) *Terms.* Any permit other than a temporary permit shall be termed and referred to as a permanent permit:

- (1) The term of a temporary permit shall be for such period as prescribed therein, but not to exceed six (6) months.
- (2) The term of a permanent permit shall be for a period of one year within which to commence work thereunder; however, in the case of a permit to drill a hole in search of oil or gas, such drilling shall be commenced within sixty (60) days of the placement of any related surface structure; said sixty-day period is to be automatically extended if forces beyond the reasonable control of the lessee prevent the commencement of drilling within said period, provided that before the expiration of said period the lessee shall notify the director of public services of its inability to comply

with said sixty-day provision and the reasons therefor. Otherwise, a permanent permit shall continue in force as long thereafter as the use of the facility for which the permit is granted shall not be abandoned or, in the case of a permit to drill a hole in search of oil and/or gas, as long thereafter as the permittee is engaged in continuous drilling operations, or oil, gas or other hydrocarbons are produced (or capable of being produced) in paying quantities from the well pursuant to such permit.

- (3) The permit for any nonproducing well will expire on the anniversary date next following completion of a dry hole or on the anniversary next year after any well has ceased to be classified by the Railroad Commission of Texas as a "producing well," unless the well is actually being used for disposal purposes or secondary recovery projects under written permission granted by the director of public services.

Upon expiration of any well permit, the well shall be abandoned and the owners will effect abandonment within sixty (60) days of the expiration date. If the owners of any well, whose permit is subject to expiration, feel that the need of such well is required or will be required for production, disposal or secondary recovery purposes, then application may be made to the director of public services for an extension of the permit for use thereof for disposal purposes or secondary recovery. The director of public services will review the application within fifteen (15) days of receipt of such application and make his recommendation to the city council. If the city council finds that there is a need for the well, then it will order the city manager to extend the permit for a one-year period. Subsequent extensions may be obtained by similar application and approval. Should the city council find that the need for such a well does not exist, then it will instruct the city manager to order the well abandoned within a sixty-day period.

(c) *Transfer.* Any permit issued hereunder may be transferred provided that the transferee meets all the requirements thereof, including the posting of insurance and bonds required herein. A notice of transfer shall be filed with the director of public services. Within fifteen (15) days after such filing, the director of

public services shall notify the transferor and transferee whether or not the transfer meets the requirements hereof. The transferor shall nevertheless be liable for all obligations under the permit occurring prior to the effective date of the transfer.

(d) *Amendment.* Any holder of an unexpired permit may, upon application, obtain an amended permit from the director of public services for the purpose of changing bottom hole location, depth or direction of hole from the same surface location. (Ord. No. 81-95, § 1 (Exhibit A, § 15-106), 12-14-81)

#### **Sec. 15-117. Acceptance of permit.**

The issuance of a permit and its acceptance by the permittee shall ipso facto bind and obligate the permittee, his or her executors, administrators, successors and assigns for so long as any drilling, producing, processing, transporting, handling, treating or other operations are being conducted on or with reference to the permitted well or other facility as follows:

- (1) To maintain in force and effect a policy or policies of public liability and property damage insurance with the minimum coverages specified in section 15-118 and to furnish annually to the director of public services current copies of policies of insurance and endorsements corresponding to those required;
- (2) To indemnify the city against, and to promptly pay the city for, all property damage of every kind and nature caused to property owned by the city that may arise because of willful or negligent acts of permittee or the failure of permittee to comply with the provisions of this article;
- (3) To fully comply with all of the terms and requirements of the permit and this article and all other applicable ordinances of the city, as any of the same may be amended from time to time and to fully comply with all applicable requirements of federal and state laws and of all federal and state regulatory bodies having jurisdiction;
- (4) To conduct all operations relative to the purpose for which the permit is obtained with adequate rigs, tools, machine-

ry, and equipment, employing recognized procedures in a prudent manner so as to provide maximum protection and safeguards against possible injury to persons or damage to property, public or private; to prevent blowout, cratering, fire, explosion, surface property damage, pollution or contamination of the waters of the gulf and hazards to navigation.

- (5) To designate a competent representative who shall be responsible for the supervision of drilling operations and the carrying out of the conditions of any permit and the terms and requirements of this article. Such representative shall be available at all times during drilling, production or other operations and shall be the responsible contact agent of the permittee whom the director of public services may require to carry out the provisions of the permit. (Ord. No. 81-95, § 1 (Exhibit A, § 15-107), 12-14-81)

#### **Sec. 15-118. Insurance.**

The holder of any permit issued hereunder shall obtain and maintain in force a policy or policies of public liability and property damage insurance issued by a reliable insurance company or companies authorized to do business in Texas and having a policyholder rating of "excellent" or better and financial rating of "BBBB" or better according to the ratings issued by the Best's Insurance Guide, insuring the permittee against claims for bodily injury and property damage that might be sustained by the city or any member of the public by reason of any operations conducted under said permit, with coverage limits for bodily injury or death to one person not less than three hundred thousand dollars (\$300,000.00) and not less than one million dollars (\$1,000,000.00) for any one accident, and for property damage of not less than one million dollars (\$1,000,000.00) for any one occurrence. In addition, the holder of any permit issued hereunder shall obtain and maintain in force a policy or policies of blowout or cost-of-well control insurance in an amount not less than one million dollars (\$1,000,000.00) for each well. The permittee shall also execute an agreement with the city to hold the city harmless from any and all liability arising out of the granting of, or the permittee's operations pursuant to, the permits

herein described. The permittee shall insure performance of this indemnity agreement by having contractual liability insurance in amounts of public liability. Each policy of insurance shall contain a provision obligating the insurer to give the director written notice of cancellation not less than thirty (30) days prior to the date of cancellation. The form of the foregoing policies of insurance as to coverage and amount and the form of the indemnity agreement referred to above shall be approved by the city attorney. (Ord. No. 81-95, § 1 (Exhibit A, § 15-108), 12-14-81)

#### **Sec. 15-119. Bonds.**

The holder of any permit issued hereunder shall post a corporate surety bond in the sum of thirty thousand dollars (\$30,000.00) executed by the permittee, as a principal, and by a surety company acceptable to the city, as surety, and conditioned that the principal named in the bond shall faithfully comply with all of the provisions hereof and of the permit until said permit shall have been released by the principal and the release shall have been approved by the city as provided herein. Such bond shall secure the city against all costs, charges and expenses incurred by it for reasons of failure of the principal to duly comply with the provisions of the permit and of this article. In lieu of a bond for each permit held:

- (1) Any permittee may post a blanket bond covering all permits issued to the permittee hereunder in the sum of one hundred thousand dollars (\$100,000.00), which shall be conditioned in the same manner aforesaid; or,
- (2) In the sole discretion of the council, a permittee may be allowed to post an indemnity agreement with the city conditioned in the same manner as a bond required hereunder if such permittee files a balance sheet and statement certified by a recognized firm of certified public accountants reflecting the net worth of a permittee to be in excess of ten million dollars (\$10,000,000.00).

(Ord. No. 81-95, § 1 (Exhibit A, § 15-109), 12-14-81)

**Sec. 15-120. Display of permittee name, permit number.**

All surface structures, production platforms, and other facilities for which a permit is issued hereunder shall have affixed thereto a sign made of some permanent material, which shall reflect the name of the permittee and the number of the permit issued therefor conforming to the requirements of the Railroad Commission of Texas. (Ord. No. 81-95, § 1 (Exhibit A, § 15-110), 12-14-81)

**Sec. 15-121. Relinquishment of permit.**

In the event of abandonment of a well or the permanent cessation of use of a production platform, or other structure or facility for which a temporary or permanent permit has been issued hereunder, such permit shall be relinquished by the parties to whom it was granted or transferred. The permittee shall promptly notify the director of public services in writing whenever such permit should be relinquished under the provisions hereof. The director of public services (or any inspector, consultant or contractor or other official duly authorized hereunder) shall forthwith make an inspection to determine if all requirements and provisions hereof have been complied with, and if so found, then the city manager shall issue a release to the holder of such a permit and such permittee, as well as his sureties, shall thereafter be relieved of all obligations hereunder (except that the permittee and sureties shall not thereby be relieved of obligation with respect to any legal cause of action which may have accrued prior thereof in favor of the city or any other person, until the applicable statute of limitation shall have barred any such cause of action). (Ord. No. 81-95, § 1 (Exhibit A, § 15-111), 12-14-81)

**Sec. 15-122. Inspections.**

(a) *Completed structures and facilities.* Each well, production platform, or other structure or facility for which a permanent or temporary permit has been issued and is still in effect shall be inspected, insofar as it is feasible to do so upon due notification, at least annually by the director of public services (or by an inspector or other employee, consultant or contractor of the city

designated pursuant hereto) and at such other times as may be directed by the council or the director of public services.

If the director of public services (or other properly designated official, consultant or contractor) shall find that no violation hereof, of the applicable permit, or of any other regulation has occurred, he shall so certify to the council.

If the director of public services (or other properly designated official, consultant or contractor) shall find a violation hereof, of the applicable permit, or of any other regulation, he shall make a report specifying such violation to the council.

(b) *Locations prior to commencement of drilling.* The location of any well for which a permit is granted hereunder may be inspected prior to the commencement of drilling by the director of public services (or other official, employees, consultant or contractor duly authorized hereunder) if deemed advisable in which case he shall certify that such location is in compliance with the applicable permit and this article. (Ord. No. 81-95, § 1 (Exhibit A, § 15-112), 12-14-81)

**Sec. 15-123. Violations and penalties; other remedies; election of remedies.**

(a) *Violations.* It shall be unlawful and an offense for any person to violate or fail to comply with any provision of this article or any provision of a permit issued hereunder. Any violation or failure to comply with the laws of the State of Texas, or any rule, regulations, or requirement of any state or federal regulatory body having jurisdiction with respect to drilling, completing, equipping, operating, producing, or abandoning an oil or gas well or related appurtenances, equipment or facilities or with respect to the storage and transportation of oil, gas or other hydrocarbons, or in reference to fire protection, blowout protection, safety protection, water or navigation shall also be unlawful and an offense hereunder.

(b) *Fine; revocation of permit.* Any person who shall do or perform an unlawful act or commit an offense as specified in paragraph (a) hereof shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be fined in any sum not less than five

dollars (\$5.00) and not more than two hundred dollars (\$200.00); and the violation of any provision, law, rule, regulation, and requirement shall be considered as a separate offense, and each day's violation of each provision, law, regulation and requirement shall be considered a separate offense.

In addition to the foregoing penalties, it is further provided that the council, at any regular or special meeting thereof, may revoke any permit issued hereunder in the event that the permittee has intentionally or repeatedly done or performed an unlawful act or committed an offense as specified herein; provided, that if the violation is such as could be remedied by permittee, the permit shall not be revoked unless permittee has been notified in accordance with paragraph (c) hereof and has thereafter failed or refused to remedy such violation; and further provided, that fourteen (14) days' notice shall be given to the permittee that revocation is to be considered at such a meeting. In the event the permit is revoked, the permittee may make application to the council for reissuance of such a permit.

(c) *Remedial action by city to cure violation.* In addition to all other penalties provided herein, any violation of the provisions hereof which may be cured by remedial action shall be remedied by the person committing such violation within fourteen (14) days after notification of the specific remedial action required by the council; and upon failure of such person to take the action required in the notification by the council, the council may direct any official or agency of the city to do so and perform all such remedial action at the sole cost and expense of the person committing such violation, and such person shall immediately reimburse the city for all costs so incurred upon notification thereof.

(d) *Injunction.* In addition to any other penalty provided hereby, the council may direct the city attorney to institute an action in any court having competent jurisdiction to enjoin any violation of the provisions hereof or for an injunction to compel compliance with any provision thereof.

(e) *Election remedies.* The penalties and remedies provided herein for violations of this article shall be cumulative, and nothing herein contained shall be deemed to require the council or any



officer or employee of the city, to elect or pursue one penalty or remedy hereunder to the exclusion of any other remedy or penalty for which provision is herein made, or to the exclusion of any remedy at law or in equity, nor shall any action taken or caused to be taken by the council, or any officer or employee of the city, be construed to be such an election. (Ord. No. 81-95, § 1 (Exhibit A, § 15-114), 12-14-81)

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