

ARTICLE II. DRILLING AND PRODUCTION

Sec. 56-31. Purpose.

The drilling and production of oil or gas within the corporate limits of the town necessitate reasonable regulations to prevent imminent destruction of property or injury to persons and to make these activities conform to the town's ordinances, zoning ordinances, comprehensive plans and development regulations. This article implements reasonable regulations to protect the health, safety, and general welfare of the public and to accomplish the orderly and practical development of mineral resources.

(Ord. No. 458, § 1.0, 5-24-2004)

Sec. 56-32. Definitions.

All technical industry words or phrases related to the drilling and production of oil or gas wells not specifically defined shall have the meanings customarily attributable thereto by prudent operators in the oil and gas industry. For the purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Abandonment means "abandonment" as defined by the railroad commission and includes the plugging of the well and restoration of the drill site as required by this article.

Drill site means the area used for drilling, completing, or reworking a well.

Drilling means any digging or boring of a new well, or exploration thereof, to develop or produce oil or gas or to inject gas, water, or any other fluid or substance into the earth. Drilling also means the re-entry of an abandoned well. Drilling does not mean or include the re-entry of a well that has not been abandoned

Exploration means geologic or geophysical activities, including, but not limited to surveying and seismic exploration, related to the search for oil, gas, or other subsurface hydrocarbons.

Fire marshal means the fire marshal, or in the absence of a designated fire marshal the Town Manager of the Town of Westlake, Texas.

Fire code means the Uniform Fire Code of the Town of Westlake, Texas, as amended.

Gas means gas or natural gas, as such terms are used in the rules, regulations, or forms of the railroad commission.

Hazardous Materials Management Plan means the hazardous materials management plan and hazardous materials inventory statements required by the fire code.

New well means a new well bore or new hole established at the ground surface and shall not include the reworking of an existing well that has not been abandoned, unless such a rework intends to extend to deeper zone, which would require a new permit.

Oil means petroleum, mineral oil, motor oil or grease.

Oil or gas well means any well drilled for the production of oil or gas classified as an oil or gas well under the Texas Natural Resources Code or the railroad commission.

Oil or gas well permit means an oil or gas well permit applied for and issued or denied under this article authorizing the drilling, production, and operation of one or more oil or gas wells.

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

Operator means, for each well, the person listed on the Railroad Commission of Texas Form W-1 or Form P-4 for an oil or gas well.

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

Petroleum specialist means a person familiar with and educated in the oil and gas industry who has been retained by the town.

Railroad commission means the Railroad Commission of Texas.

Structure means any building intended for shelter, occupancy, housing, or enclosure for persons, animals, cattle, or storage.

Town means the Town of Westlake, Texas.

Town manager means the Town Manager of the Town of Westlake, Texas, or his designee.

Unified development code means the Unified Development Code of the Town of Westlake, Texas, as amended.

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

(Ord. No. 458, § 1.1, 5-24-2004)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 56-33. Oil or gas well drilling and production by specific use permit; application and requirements.

(a) No person, acting for himself or acting as an agent, employee, independent contractor, or servant for any person, shall engage in drilling or production of an oil or gas well within the corporate limits of the town without approval of a specific use permit as required by the unified development code.

(b) An application for a specific use permit for the drilling and production of an oil or gas well shall be filed by the person having legal authority. That person is presumed to be the record owner, mineral owner, or the duly authorized agent of either the record owner or the mineral owner. The application shall be submitted to the town manager.

(c) No application for a specific use permit shall be accepted for filing until it is complete in its entirety and the fee established by the board of aldermen of the town has been paid. Incomplete applications shall be returned less a fee for processing determined by the town manager.

(Ord. No. 458, § 1.2, 5-24-2004)

Sec. 56-34. Standards for oil or gas well drilling and production.

(a) The drilling and production of an oil or gas well if authorized by the approval of a specific use permit shall include, at a minimum, the following standards:

(1) *Compliance with the site plan/development plan requirement.* No drilling or production of an oil or gas well shall begin until an oil or gas well development site plan has been approved by the town manager and conforms to the unified development code.

a. The property owner/applicant shall provide for adequate public facilities, as determined by the town manager and in accordance with unified development code, including water supply, access roads, drainage, erosion control and other necessary supporting facilities identified on the oil or gas well development site plan.

b. The design, location, and arrangement of all driveways and parking spaces shall provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments/properties.

c. Road repair agreement shall be prepared and filed with the town manager.

- d. If a specific use permit is granted by the board of aldermen of the town, an oil or gas well drilling permit shall be applied for to the fire marshal.
- e. An oil or gas well permit fee of \$2,500.00 shall be payable to the town at the time said permit is applied for.

(2) *On-site requirements.*

- a. Oil or gas wells shall be located a minimum of 100 feet from all property lines or additional distance as required by the railroad commission. A secured entrance gate shall be required. Street lighting shall be allowed pursuant to the unified development code and the sign identifying the entrance to the drill site or operation site shall be reflective and consistent with UDC standards.
- b. Temporary fences shall be required on drill sites during initial drilling, completion, or rework operations. Sites will be posted with no trespassing signs. Upon completion of initial drilling and completion permit issued by the railroad commission, permanent fences with locks shall be required.
- c. Fences located on operation sites must remain locked at all times.
- d. No refining process, or any process for the extraction of products from oil or gas, shall be carried on at a drill site or operation site, except that a dehydrator and separator may be maintained on a drill site or operation site for the separation of liquids from oil or gas. Any such dehydrator or separator may serve more than one well.
- e. Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" in a minimum of four-inch lettering shall be posted at the entrance of each drill site and operation site. The sign shall include the phone number for emergency services (911), the number for the operator, and the well designation required by the railroad commission in four-inch lettering.
- f. No person shall place, deposit, or discharge (or cause or permit to be placed, deposited, or discharged) any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substance, or any refuse, including wastewater or brine, from any oil or gas operation or the contents of any container used in connection with any oil or gas operation in, into, or upon any public right-of-way, storm drain, ditch or sewer, sanitary drain or sewer, any body of water, or any private property within the corporate limits of the town.
- g. All production equipment and fencing on an operation site shall be painted and maintained at all times, including pumping units, storage tanks, buildings, and structures. Paint color shall be "environmental green" and is subject to approval by the town manager or his designee.
- h. All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding areas or subdivision, and shall comply with the unified development code. Overhead temporary lines may be installed upon approval by the town manager but must be buried or removed at completion of well.
- i. All fire suppression and prevention equipment required by any applicable federal, state, or local ordinance shall be provided by the operator, at the operator's cost, and maintenance and upkeep of such equipment shall be the responsibility of the operator.
- j. No operator shall excavate or construct any lines for the conveyance of fuel, water, or minerals on, under, or through the streets or alleys or other land of the town without an easement or right-of-way permit from the town, at a fee to be agreed upon, and then only in strict compliance with this article, with other ordinances of the town, and with the specifications established by the town manager.
- k. The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any public street, trail or sidewalk or leaving upon any public street, trail or sidewalk any earth or other material or obstruction, is prohibited unless the operator has first obtained written

permission from the town manager, and then only in compliance with specifications established by the town. It shall be the responsibility of the production company to repair all damaged city property to its prior condition.

l. No oil or gas well permit shall be issued for any well to be drilled within any of the rights-of-way, easements, streets or alleys of the town or proposed streets shown by the Town of Westlake Thoroughfare Plan without the approval of the board of alderman, and no street shall be blocked or encumbered or closed due to any exploration, drilling, or production activities unless prior consent is obtained by the town manager, and then only on a temporary basis.

m. All sites shall be screened upon completion with shrubbery large enough to cover the height of the wellhead within two years. Reasonable berming may be required in addition to foliage screening to provide a visual buffer of the well and equipment.

(3) *Operations and equipment practices and standards.*

a. Adequate nuisance prevention measures shall be taken to prevent or control offensive odor, fumes, dust, noise, and vibration. Rigs must be of a type and technology to produce minimal noise.

b. Directional lighting shall be provided for the safety of oil or gas well drilling and production operations and shall be provided so as to not disturb or adversely affect adjacent properties. No light source shall be visible from any ground mounted or pole mounted light. Rig lights shall be directional and focused exclusively on the operational area of the rig.

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

d. Internal combustion engines may be used in drilling operations if they have mufflers that will reduce noise to not more than 90 decibels at any point 300 feet from the boundary of the drill site or operation site. Only electric motors shall be used for the purpose of pumping oil or gas wells.

e. There shall be no venting of oil or gas into the open air except as required to be allowed by the railroad commission and as approved by the fire marshal.

f. Vehicles, equipment, and machinery shall not be placed or located on a drill site or operation site (or on any public street, alley, driveway, or other public right-of-way) in such a way as to constitute a fire hazard or to unreasonably obstruct or interfere with fighting or controlling fires.

g. Only light sand fracture technology or technologies in accordance with the fire code of the town shall be used to fracture stimulate a well.

h. Fracing operation shall be scheduled to occur during daylight hours. Exceptions to this rule will be rare and require the approval of the town manager only after it has been determined that night time fracing will not disturb residential areas.

i. Air, gas, or pneumatic drilling shall not be permitted.

(4) *Storage tanks and separators.*

a. An operator is allowed to construct, use, and operate such storage equipment and separation equipment as shown on the typical well site, typical drilling pad, and typical pad site locations on the oil or gas well development site plan approved by the board of aldermen in accordance with all provisions of this article.

b. The use of centralized tank batteries is permitted as shown on the oil or well development site plan.

c. No meters, storage tanks, separation facilities, or other aboveground facilities shall be placed in the 100-year floodplain.

(5) *Flow lines and gathering lines.*

- a. Each operator shall place an identifying sign at each point where a flow line or gathering line crosses under a public street or road.
- b. Each operator shall place a warning sign for lines carrying H₂S (Hydrogen Sulfide) gas as required by the railroad commission. If this oil or gas field is identified by the railroad commission as an H₂S field, or sour gas, the operator may be required to cease operations.
- c. All flow lines and gathering lines within the corporate limits of the town (excluding town utility lines and franchise distribution systems) that are used to transport oil, gas, and/or water shall be limited to the maximum allowable operating pressure applicable to the pipes installed and shall be installed with at least the minimum cover or backfill specified by the American National Safety Institute Code, as amended.
- d. Structures shall not be built over flow lines or gathering lines.

(6) *Additional safety and environmental requirements.*

- a. Drilling and production of oil or gas wells shall comply with all federal, state, and local ordinances applicable to oil and gas well drilling, production and operations. The drilling and production of oil or gas and accessing the oil or gas well site shall be in compliance with all state and federal environmental regulations.
- b. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All wellheads shall contain an emergency shut off valve to the well distribution line.
- c. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank.
- d. All storage tanks shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be of a sufficient height to contain one and one-half times the contents of the largest tank in accordance with the fire code, and buried at least one foot below the surface. Drip pots shall be provided at pump out connection to contain the liquids from the storage tank.
- e. Tank battery facilities shall be equipped with a remote foam line utilizing 2.5" National Standard Hose Thread female inlet connection in locations approved by the fire marshal. An approved lightning arrestor system shall be installed according to the most current edition of the National Electrical Code.
- f. A hazardous materials management plan shall be on file with the fire marshal.
- g. All wells shall be abandoned in accordance with the rules of the Railroad Commission; however, all well casings shall be cut and removed to a depth of at least ten feet below the surface unless the surface owner submits a written agreement. In any event, three feet shall be the minimum depth.
- h. No structures shall be built over an abandoned well.
- i. No saltwater disposal wells or water injection shall be located within the town.
- j. Lining the reserve pit shall be required.
- k. Following the completion of the drilling operation or when a drilling site is abandoned, the operator shall restore the site to its pre-drilling condition.

(7) *Supplemental drilling.*

- a. Supplemental drilling to rework, deepen or directional drill an existing well shall be conducted in accordance with the conditions for the specific use permit. The operator shall provide the fire marshal a copy of additional railroad commission permits that allow drilling to a deeper depth.

b. Supplemental drilling to rework, deepen or directional drill an existing well shall be conducted in accordance with the approved oil or gas well permit for the well on file with the fire marshal.

(Ord. No. 458, § 1.3, 5-24-2004)

Sec. 56-35. Planning and zoning commission recommendations for specific use permits

(a) An application for a specific use permit shall be reviewed in accordance with the unified development code. The planning and zoning commission may make recommendations regarding any aspect of the proposed oil or gas well development.

(b) In connection with the review of an application for a specific use permit for the drilling and production of oil or gas wells, the town, at its sole discretion, may hire a petroleum specialist to assist in reviewing the application. If such a determination is made, the fire marshal will provide the operator a written "scope of work" that the town proposes for such specialist. The fire marshal and the operator will attempt to agree upon the "scope of work"; however, the decision of the fire marshal shall control. If the specialist is required, the operator shall provide a retainer to cover the costs and fees associated therewith. All work performed by the specialist shall be itemized on a daily basis (including a description of the work and the amount of time spent), and such itemization shall be provided to the operator with each request for payment.

(c) The board of aldermen at the time of consideration of an application for specific use permit for the oil or gas well drilling and operation, has the authority to establish additional guidelines criteria and standards. Any guidelines in addition to these requirements stated herein shall be placed in the ordinance approving the specific use permit.

(Ord. No. 458, § 1.4, 5-24-2004)

Sec. 56-36. Oil or gas well permit required.

(a) Any person, acting for himself or acting as an agent, employee, independent contractor, or servant for any person, shall not engage in the drilling and production of oil or gas wells within the corporate limits of the town without first obtaining an oil or gas well permit in accordance with the provisions of this article. An operator may apply for, and obtain, a separate permit covering each well or a "blanket" permit covering multiple wells.

(b) When an oil or gas well permit has been issued, the permit shall constitute authority for drilling, operation, production, gathering of production, maintenance, repair, reworking, testing, site preparation consisting of rigs or tank batteries, plugging and abandonment, and any other activity authorized by this article associated with drilling or production by the operator and their respective employees, agents, and contractors. An oil or gas well permit shall also constitute authority for the construction and use of all facilities reasonably necessary or convenient in connection therewith, including gathering lines and discharge lines, by the operator and its respective employees, agents, contractors and subcontractors.

(c) An oil or gas well permit shall be required for exploration for oil or gas. A notice to proceed issued by the fire marshal is required prior to commencing any exploration activity. Exploration of oil or gas means geologic or geophysical activities, including, but not limited to surveying and seismic exploration, related to the search for oil, gas, or other subsurface hydrocarbons.

(d) Any well that is located on property that has been annexed into the town shall be required to meet the requirements of this article and the operator shall apply for an oil or gas well permit on the effective date of the annexation.

(e) Re-entry and drilling of an abandoned well shall require a new oil or gas well permit.

(f) Applications for oil or gas well permits shall be in writing, shall be signed by the operator, shall include the application fee, and shall include a copy of the applicable specific use permit ordinance and site plan.

(Ord. No. 458, § 1.5, 5-24-2004)

Sec. 56-37. Insurance and indemnification.

The operator shall provide or cause to be provided the insurance described below for each well for which an oil or gas well permit is issued, such insurance to continue until the well is abandoned and the site restored. The operator may provide the required coverage on a "blanket basis for multiple wells". The town manager shall approve such coverage.

(a) *General requirements; indemnification and express negligence provisions.*

(1) Each oil or gas well permit issued by the town shall include the following language:

Operator does hereby expressly release and discharge, all claims, demands, actions, judgments, and executions which it ever had, or now have or may have, or assigns may have, or claim to have, against the Town of Westlake, and/or its departments, its agents, officers, attorneys, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under an oil or gas well permit and the operator caused by or arising out of, that sequence of events which occur from the operator under the oil or gas well permit and work performed by the operator shall fully defend, protect, indemnify, and hold harmless the town, its elected and appointed officials, and/or its departments, agents, officers, servants, attorneys, employees, successors, assigns, sponsors, or volunteers from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the town, its elected and appointed officials, and/or its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the operator under an oil or gas well permit and, the operator agrees to indemnify and hold harmless the town and/or its departments, and/or its officers, agents, servants, attorneys, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the town, its elected and appointed officials, and/or its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the Town of Westlake occurring on the drill site or operation site in the course and scope of inspecting and permitting the oil or gas wells INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE SOLE NEGLIGENCE OF THE TOWN OF WESTLAKE OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE OIL OR GAS WELLS. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE TOWN OF WESTLAKE, TEXAS, ITS ELECTED AND APOINTED OFFICIALS, AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, ATTORNEYS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE TOWN OF WESTLAKE, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, ATTORNEYS, OR EMPLOYEES,

WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE. LIABILITY FOR THE SOLE NEGLIGENCE OF THE TOWN IN THE COURSE AND SCOPE OF ITS DUTY TO INSPECT AND PERMIT THE OIL OR GAS WELL IS LIMITED TO THE MAXIMUM AMOUNT OF RECOVERY UNDER THE TORT CLAIMS ACT.

(2) All insurance policies shall be endorsed to read "this policy will not be canceled or nonrenewed without 30 days' advanced written notice to the owner and the town except when this policy is being cancelled for nonpayment of premium, in which case ten days' advance written notice is required".

(3) Liability policies shall be written by carriers licensed to do business in the State of Texas and with companies with A:VIII or better rating in accordance with the current Best Key Rating Guide, or with nonadmitted carriers that have a financial rating comparable to carriers licensed to do business in Texas and approved by the town.

(4) Liability policies shall name as "additional insured" the Town of Westlake and its officials, agents and employees.

(5) Certificates of insurance must be presented to the town evidencing all coverages and endorsements required by this article and the acceptance of a certificate without the required limits and/or coverages shall not be deemed a waiver of these requirements.

(6) Claims made policies will not be accepted except for excess policies or unless otherwise provided by this article.

(b) *Required insurance coverages.*

(1) *Commercial general liability insurance.*

a. Coverage should be a minimum combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage. This coverage must include premises, operations, blowout or explosion products completed operations, blanket contractual liability, underground property damage broad form property damage, independent contractor's protective liability and personal injury

b. Environmental impairment (or seepage and pollution) shall be either included in the coverage or written as separate coverage. Such coverage shall not exclude damage to the lease site. If environmental impairment (or seepage and pollution) Coverage is written on a "claims made" basis, the policy must provide that any retroactive date applicable precedes the effective date of the issuance of the permit. Coverage shall apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste material or other irritants, contaminants or pollutants. Coverage shall be a minimum combined single limit of \$1,000,000.00 per occurrence.

(2) *Automobile liability insurance.* Minimum combined single limit of \$500,000.00 per occurrence for bodily injury and property damage. Such coverage shall include owned, nonowned, and hired vehicles.

(3) *Worker's compensation insurance.* In addition to the minimum statutory requirements, coverage shall include employer's liability limits of at least \$100,000.00 for each accident, \$100,000.00 for each employee, and a \$500,000.00 policy limit for occupational disease, and the insurer agrees to waive rights of subrogation against the town, its officials, agents, and employees for any work performed for the town by the operator.

(4) *Excess (or umbrella) liability insurance.* Minimum limit of \$10,000,000.00 covering in excess of the preceding insurance policies.

(5) *Control of well insurance.*

- a. Minimum limit of \$5,000,000.00 per occurrence.
- b. Policy shall cover the cost of controlling a well that is out of control, redrilling or restoration expenses, and seepage and pollution damage. Damage to property in the operator's care, custody, and control with a sub-limit of \$500,000.00 may be added.
(Ord. No. 458, § 1.6, 5-24-2004)

Sec. 56-38. Surety.

(a) A security instrument that covers each well must be delivered to the town manager before the issuance of the oil or gas well permit for the well. The instrument must provide that it cannot be cancelled without at least 30 days' prior written notice to the town and, if the instrument is a performance bond, that the bond cannot be cancelled without at least ten days' prior written notice for nonpayment of premium. The instrument shall secure the obligations of the operator related to the well to:

- (1) Repair damage, excluding ordinary wear and tear, if any, to public streets and other public infrastructure, including but not limited to bridges, caused by the operator or by the operator's employees, agents, contractors, subcontractors or representatives in the performance of any activity authorized by or contemplated by the oil or gas well permit;
- (2) Comply with the insurance and security provisions set forth in this article; and
- (3) Pay fines and penalties imposed upon the operator by the town for any breach of the oil or gas well permit.

(b) The security instrument may be in the form of an irrevocable letter of credit or payment bond issued by a bank or surety approved by the town. The instrument shall run to the town for the benefit of the town, shall become effective on or before the date the oil or gas well permit is issued, and shall remain in effect until the well is abandoned and the site restored.

(c) A certificate of deposit may be substituted for the letter of credit or payment bond. The certificate shall be issued by a bank in Tarrant County, Texas, shall be approved by the town, shall be payable to the order of the town to secure the obligations of the operator described above, and shall be pledged to the bank with evidence of delivery provided to the town manager. Interest on the certificate shall be payable to the operator.

(d) The security instrument shall be provided for individual wells. The amount of the security shall be a minimum of \$50,000.00 for any single well.

(e) The security will terminate when the oil or gas well permit is transferred, with respect to the operator-transferor and if the operator-transferee provides replacement security that complies with this section, when the well is abandoned and the site restored, or when the town manager consents in writing to such termination.

(f) An appeal of the determination of the amount of security required under this article may be made to the board of aldermen for final determination of the amount.

(Ord. No. 458, § 1.7, 5-24-2004)

Sec. 56-39. Review of applications for oil or gas well permit.

(a) All applications for oil or gas well permits shall be filed with the town manager following the approval of a specific use permit by the board of aldermen. Incomplete applications shall be returned to the applicant, in which case the town manager shall provide a written explanation of the deficiencies if requested by the applicant. The town shall retain a processing fee of \$250.00.

(b) The town marshal may issue the oil or gas well permit after receiving the DRC report within ten days unless he determines that the application is incomplete or that the application is not in

conformance with the applicable oil or gas well development plan or the planned development zoning district. The town may employ a petroleum specialist to assist in reviewing the application. All communications regarding the permit shall be directed to the fire marshal.

(c) The town manager may condition the release of the approved oil or gas well permit upon the operator providing the security required by this article and upon the operator entering into a road repair agreement that will obligate the operator to repair damage excluding ordinary wear and tear, if any, to public streets, including but not limited to, bridges caused by the operator or by the operator's employees, agents, contractors, subcontractors or representatives in the performance of any activity authorized by or contemplated by the approved oil or gas well permit.

(d) The failure of the town manager to review and issue an oil or gas well permit within the time limits specified above shall not cause the application for the permit to be deemed approved.

(e) Each oil or gas well permit issued by the town shall:

(1) Identify the name of each well and its operator;

(2) Specify the date on which the town issued each permit;

(3) Specify the date by which drilling must commence on at least one well covered by the permit otherwise the permit expires (such date shall not be less than one year after the date of issuance). A one-year extension of time may be granted if existing conditions are the same and an application for extension is made to the fire marshal prior to expiration of initial permit;

(4) Specify that if drilling is commenced on at least one well covered by the permit before the permit expires, the permit shall continue until the wells covered by the permit are abandoned and the site restored;

(5) Incorporate, by reference, the insurance and security requirements set forth in this article;

(6) Incorporate, by reference, the requirement for periodic reports;

(7) Incorporate the full text of the release of liability provisions;

(8) Incorporate, by reference, the conditions of the applicable development plan, and specific use permit;

(9) Incorporate, by reference, the information contained in the permit application;

(10) Incorporate, by reference, the applicable rules, and regulations of the railroad commission, including the applicable "field rules";

(11) Specify that no drilling operations (including the construction of internal private access roads) shall commence until the operator has provided the security required by this article;

(12) Contain the name, address, and phone number of the person designated to receive notices from the town, which person must be a resident of Texas that can be served in person or by registered or certified mail; and

(13) Incorporate, by reference, all permits and fees required by the town.

(f) The decision of the town to deny an application for an oil or gas well permit shall be provided to the operator in writing within ten days after the decision, or as soon as reasonably practical, including an explanation of the basis for the decision, if requested by the operator. The operator may appeal any such denial to the town manager. The decision of the town manager is final and may not be appealed to another board or person in the town.

(g) If an application for an oil or gas well permit is denied by the town, nothing herein contained shall prevent a new permit application from being submitted to the town for the same well.

(Ord. No. 458, § 1.8, 5-24-2004)

Sec. 56-40. Reports.

(a) The operator shall notify the town in writing of any changes to the following information immediately, within one business day after the change occurs.

(1) The name, address, and phone number of the operator;

(2) The name, address, and 24-hour phone number of the person(s) with supervisory authority over drilling or operations activities;

(3) The name, address, and phone number of the person designated to receive notices from the town, which person must be a resident of Texas that can be served in person or by registered or certified mail; and

(4) The operator's emergency action response plan including "drive-to-maps" from public rights-of-way to each drill site.

(b) The operator shall provide a copy of any "incident reports" or written complaints submitted to the railroad commission or any other state or federal agency, to the fire marshal, within 30 days after the operator has notice of the existence of such reports or complaints.

(c) Beginning on December 31 after each well is completed, and continuing on each December 31 thereafter until the operator notifies the town that the well has been abandoned and the site restored, the operator shall prepare a written report to the town identifying any changes to the information that was included in the application for the applicable oil or gas well permit that have not been previously reported to the town.

(d) All reports, notifications, and inquiries regarding an oil or gas well permit shall be directed to the town manager.

(Ord. No. 458, § 1.9, 5-24-2004)

Sec. 56-41. Notice of activities.

Any person who intends to rework a well using a drilling rig, to fracture stimulate a well after initial completion, or to conduct seismic exploration involving explosive charges shall give written notice to the town at least ten working days before the activities begin. The notice shall identify where the activities will be conducted and shall describe the activities in reasonable detail, including but not limited to the duration of the activities and the time of day they will be conducted. The notice must also provide the address and 24-hour phone number of the person conducting the activities. The person conducting the activities will post a sign on the property giving the public notice of the activities, including the name, address, and 24-hour phone number of the person conducting the activities. If the town determines that an inspection by the fire marshal is necessary, the operator will pay the town's charge for the inspection.

(Ord. No. 458, § 1.10, 5-24-2004)

Sec. 56-42. Amended oil and gas well permits.

(a) An operator may submit an application to the town to amend an existing oil or gas well permit to commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) the existing permit, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing permit, or to otherwise amend the existing permit.

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

(1) The application amendment fee in the amount of \$500.00;

- (2) A description of the proposed amendments;
 - (3) Any changes to the information submitted with the application for the existing oil or gas well permit (if such information has not previously been provided to the town);
 - (4) Such additional information as is reasonably required by the fire marshal to demonstrate compliance with the applicable development plan, and applicable specific use permit; and
 - (5) Such additional information as is reasonably required by the fire marshal to prevent imminent destruction of property or injury to persons.
- (c) All applications for amended oil or gas well permits shall be filed with the fire marshal. Incomplete applications may be returned to the applicant, in which case the fire marshal shall provide a written explanation of the deficiencies; however, the town may retain the application fee. The fire marshal may return any application as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator.
- (d) If the activities proposed by the amendment are not materially different from the activities covered by the existing oil or gas well permit, and if the proposed activities are in conformance with the applicable development site plan and specific use permit, then the town shall approve the amendment within ten working days after the application is filed.
- (e) If the activities proposed by the amendment are materially different from the activities covered by the existing oil or gas well permit, and if the proposed activities are in conformance with the applicable development site plan and specific use permit, then the town shall approve the amendment within 30 days after the application is filed. If, however, the activities proposed by the amendment are materially different, and in the judgment of the fire marshal, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing permit or that was not otherwise taken into consideration by the existing permit, the fire marshal may require the amendment to be processed as a new oil or gas well permit application.
- (f) The failure of the town to review and issue an amended oil or gas well permit within the time limits specified above shall not cause the application for the amended permit to be deemed approved.
- (g) The decision of the town to deny an amendment to an oil or gas well permit shall be provided to the operator in writing within ten working days after the decision, or as soon as reasonably practical, including an explanation of the basis for the decision. The operator may appeal any such denial to the town manager whose decision shall be final.
- (Ord. No. 458, § 1.11, 5-24-2004)

Sec. 56-43. Transfer of oil or gas well permits.

An oil or gas well permit may be transferred by the operator with the consent of the town and shall be presented to the fire marshal in writing prior to the transfer. All requirements for insurance and security are applicable to the new owner/operator. Any transfer is subject to delivery of all certificates of new transferee operator.

(Ord. No. 458, § 1.12, 5-24-2004)

Sec. 56-44. Remedies of the town.

(a) If an operator fails to comply with any requirement of an oil or gas well permit (including any requirement incorporated by reference as part of the permit), the town shall give written notice to the operator specifying the nature of the alleged failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the alleged failure, the

extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than thirty days unless the alleged failure presents a risk of imminent destruction of property or injury to persons or unless the alleged failure involves the operator's failure to provide periodic reports. The fire marshal may issue a stop work order under the fire code.

(b) If the operator does not cure the alleged failure within the time specified by the town, the fire marshal may notify the railroad commission and request that the railroad commission take appropriate action (with a copy of such notice provided to the operator), and the town may pursue any other remedy available under this article.

(c) If the operator does not cure the alleged failure within the time specified by the town, the town manager may:

(1) Recommend to the board of aldermen that the oil or gas well permit be suspended until the alleged failure is cured; or

(2) If the operator fails to initiate and diligently pursue a cure recommended to the board of aldermen that the oil or gas well permit be revoked.

(d) The decision of the town manager to recommend suspension or revocation of an oil or gas well permit shall be provided to the operator in writing at least ten days before any action by the board of aldermen.

(e) If an oil or gas well permit is revoked, the operator may submit an application for a new oil or gas well permit for the same well.

(Ord. No. 458, § 1.13, 5-24-2004)

Sec. 56-45. Enforcement, right of entry.

The town manager is authorized and directed to enforce this article and the provisions of any oil or gas well permit. Whenever necessary to enforce any provision of this article or an oil or gas well permit, or whenever there is reasonable cause to believe there has been a violation of this article or an oil or gas well permit, the town manager, or his designated representative, may enter upon any property covered by this article or an oil or gas well permit at any reasonable time to inspect or perform any duty imposed by this article. If entry is refused, the town shall have recourse to every remedy provided by law and equity to gain entry.

(Ord. No. 458, § 1.14, 5-24-2004)

Sec. 56-46. Penalty.

(a) It shall be unlawful and an offense for any person to do the following:

(1) Engage in any activity not permitted by the terms of an oil or gas well permit issued under this article;

(2) Fail to comply with any conditions set forth in an oil or gas well permit issued under this article; or

(3) Violate any provision or requirement set forth under this article.

(b) Any violation of this article shall be punished by a fine of not more than \$2,000.00 per day. Each day a violation occurs constitutes a separate violation.

(Ord. No. 458, § 1.15, 5-24-2004)

Sec. 56-47. Rights and remedies saved.

All rights and remedies of the Town of Westlake, Texas, are expressly saved as to any and all violations of the provisions of any other ordinance affecting oil or gas drilling and production

which existed at the time of the effective date of this article; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, the same shall not be affected by this article but may be prosecuted until final disposition by the courts.

(Ord. No. 458, § 3, 5-24-2004)