

ORDINANCE NO. 22-P

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS, AMENDING CHAPTER 16, OIL AND GAS WELLS AND PIPELINES, OF THE CODE OF ORDINANCES OF THE CITY OF ALVIN, TEXAS, FOR THE PURPOSE OF AMENDING ARTICLE I. IN GENERAL, ARTICLE II. PERMITS, AND ARTICLE IV. PIPELINES; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the City Council of the City of Alvin is continually reviewing the provisions of the City Code of Ordinances to ensure that it meets the current needs of the City and that the procedures herein reflect standard practice; and

WHEREAS, the City Council of the City of Alvin desires to promote the health, safety, and general welfare of its citizens;

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

Section 1. That Chapter 16, Oil and Gas Wells and Pipelines, of the Code of Ordinances, City of Alvin, Texas, is hereby amended with the language as follows:

CHAPTER 16, OIL AND GAS WELLS AND PIPELINES

ARTICLE I. IN GENERAL

...

Sec. 16-5. Penalties; fines; and revocation of permit.

- (a) It shall be unlawful and an offense for any person to violate or fail to comply with any provision of this chapter, irrespective of whether or not the verbiage of each section of this chapter contains the specific language that such violation or failure to comply is unlawful and is an offense.
- (b) Any person who shall violate any of the provisions of this chapter, or any of the provisions of a permit issued pursuant to this chapter, or who shall fail to comply with the terms of this chapter, shall be guilty of a misdemeanor and such person shall, on conviction thereof, be fined as prescribed by section 1-5. The violation of each separate provision of this chapter, and of such permit, shall be considered a separate offense, and each day's violation of each separate provision thereof shall be considered a separate offense.

- (c) In addition to the penalties set out in this section, it is hereby provided that the City Council, may, provided that thirty (30) days' notice has been given to the permittee that revocation is to be considered, revoke or suspend any permit issued under this chapter and under which operations are being conducted, if the permittee thereof has violated any provisions of such permit or this chapter. If the permit is revoked, the permittee may make application to the City Council for reissuance of such permit. Under conditions relating to health, safety and welfare, the permit can be immediately suspended.

...

Secs. 16-6—16-10. Reserved.

ARTICLE II. PERMITS

Sec. 16-11. Permit required.

It shall be unlawful for any person to drill or commence to drill a well for oil or gas within the limits of the city, or to directionally drill so as to complete the well at a bottom hole location within the limits of the city, or to complete in a drilling block, any portion of which may lie within the city limits, or to work upon or assist in any way in the prosecution of the drilling of any such well, without a permit for the drilling, completion and operation of such well having been first issued by authority of the City Council, in accordance with the provisions of this chapter.

Sec. 16-12. Permit applications to be reviewed by City Council.

All applications and accompanying data submitted in compliance with this chapter for a permit to drill, complete and operate a well for oil or gas within the limits of the city will be reviewed by the City Council within a ninety-day time limit and action taken thereon. The city reserves the right to refuse any application for a permit.

Sec. 16-13. Refusal of permit application by City Council.

The City Council shall have the power and hereby reserves the authority to refuse any application for a permit under this chapter to drill an oil or gas well, when, by reason of the location of the proposed well and the character and value of the permanent improvements already erected on the drilling block in question or adjacent thereto, and the use to which the land and surroundings are adapted for civic purposes, or for sanitary reasons, or will be a serious disadvantage to either the health, comfort, convenience, the order, good government, safety, morals or welfare of the city and its inhabitants. When a permit is refused the fee made with the application as provided in section 16-18, shall be returned to the applicant.

Sec. 16-14. Permit application, generally.

- (a) Every application for a permit to drill, complete and operate a well for oil and gas shall be in writing and signed by the applicant or by some person duly authorized to sign the same on his behalf. It shall be filed with the City Secretary and shall state whether the well shall be drilled as an oil or gas well, the proposed depth, the drilling block and the particular lot and location in the block where the proposed well is to be located and bottomed, and shall have attached to it a plat showing the well location with a list of owners of leased and unleased interest certified by the applicant's attorney as to ownership. In the event, however,

the City Council shall find the necessity for same, the applicant shall furnish, with no cost to the city, certified or photostatic copies of the deed, oil and gas lease or drilling contract with the owners of the land covering the lots, blocks or tracts in the drilling block over which the applicant has control for oil and gas purposes, together with abstracts of title or certificates of title satisfactory to the City Council, to the end that the application will show what proportion and what parts of the drilling block the applicant owns in fee or holds under lease or drilling contract from the owners. The applicant may withdraw the abstracts or certificates of title after they have been examined by the City Council.

- (b) The application shall also be accompanied by a plat or map showing the exact perimeter and acreage content of the drilling block, designating lots, blocks or tracts owned or controlled by the applicant and showing the exact surface location of the proposed well and proposed bottom hole location.
- (c) The application shall also be accompanied by a full and detailed description of all proposed or anticipated operations, the casings and mud programs, a proposed procedure to minimize noise and vibrations, the proposed safety procedures, and any other related engineering details.
- (d) No wells shall be drilled and no permit shall be issued for any well to be drilled at any location within a drilling block which location is nearer than five hundred (500) feet of any residence, building, recorded subdivision or city approved preliminary or final plat without the applicant having first secured the written permission of the owner or owners thereof, signed and acknowledged before notaries public in the manner required for the recordings of deeds, or in the alternative, witnessed by two (2) disinterested persons. No wells shall be drilled and no permit shall be issued for any well to be drilled at any location within a drilling block which location is nearer than five hundred (500) feet to any exterior boundary line of land utilized for a public or parochial school, college, university, hospital, church or public building without permission of the owner or owners as above set out. No well shall be drilled and no permit shall be issued for any well to be drilled at any location within a drilling block which location is nearer than one thousand (1000) feet to a drainage canal, public water well or navigable stream.
- (e) The provisions of section 16-14 shall not apply when the applicant is drilling a substitute or replacement well of an existing oil and gas well, saltwater disposal well or injection well, or the applicant is deepening, recompleting, reworking, or re-entering an existing oil and gas well, saltwater disposal well, injection well, or abandoned wellbore.

This provision shall stay in full force and effect as long as the existing oil and gas lease remains in effect.

All noise levels requirements of section 16-44 of this Code shall apply.

...

Sec. 16-16. Bond and insurance; required amounts.

- (a) If a permit is issued by the City Secretary under the terms of this chapter for the drilling of a well, no actual operations shall be commenced unless the permittee shall file with the City Secretary a bond and certificate of insurance as follows: A bond in the principal sum of five hundred thousand dollars (\$500,000.00) shall be executed by a reliable insurance company. The bond shall be executed by a reliable insurance company authorized to do business in the

state, as surety, and the applicant as principal, running to the city for the benefit of the city and all persons concerned, under the condition that the permittee shall comply with the terms and conditions of this chapter and the permit in the drilling and operation of the well. Such bond shall become effective on or before the date it is filed with the City Secretary and shall remain in force and effect for at least a period of six months subsequent to the expiration of the term of the permit issued; and, in addition, the bond will be conditioned that the permittee will promptly pay all legally imposed fines, penalties and other assessments imposed upon the permittee by reason of his breach of any of the terms, provisions and conditions of this chapter and that the permittee will promptly restore the streets and sidewalks and other public property of the city which may be disturbed or damaged in the operations to their former condition; that the permittee will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the operations, and will, after abandonment or completion, grade, level and restore such property to the same surface conditions, as nearly as possible, as existed when operations were first commenced, and that the permittee will indemnify and hold the city harmless from any and all liability growing out of or attributable to the granting of such permit. If at any time the permittee's bond is determined to be insufficient for any reason, the city manager may require the permittee to file a new bond.

If after the completion of a producing well, the permittee has complied with all the provisions of this chapter, such as removing derrick, clearing the premises and erection of fences, he may apply to have the bond reduced to a sum of not less than one hundred thousand dollars (\$100,000.00) on each well or facility for the remainder of the time such well produces or facility is operated without reworking. During reworking operations, the amount of the bond shall be increased to the original amount.

- (b) In addition to the bond required in subsection (a) of this section, the permittee shall carry a policy of standard, comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the permittee and the city, with an insurance company authorized to do business in the state. Such policy in the aggregate shall provide for the following minimum coverages:
 - (1) Bodily injuries, two million dollars (\$2,000,000.00), one person; five million dollars (\$5,000,000.00), one accident.
 - (2) Property damage, five million dollars (\$5,000,000.00).

The permittee shall file with the City Secretary the certificates of insurance required by this section. The insurance policy shall not be canceled without written notice to the City Secretary at least ten days prior to the effective date of such cancellation. If such insurance policy is canceled, the permit granted shall terminate, and the permittee's right to operate under such permit shall cease until the permittee files additional insurance as provided in this section.

- (c) In lieu of any security bond or bonds required to be given under this section, the applicant may file with the City Secretary his personal undertaking or undertakings which shall be in the same amount and shall contain the same conditions as hereinbefore provided with respect to surety bonds and which undertaking or undertakings shall be secured by United States government securities or securities of the State of Texas, or of counties or municipalities in the State of Texas, having a par value equal to the amount of the surety bond or bonds in lieu of which undertaking or undertakings is or are given, which securities

shall be deposited in escrow in a bank in the city jointly selected by the City Secretary and the applicant or his assigns along with and attached to a copy of the written undertaking for which they are to be held as security.

- (d) If any permit shall terminate and become inoperative as provided in section 16-23 or if the permittee or his assigns shall file with the City Council written notice of his or their election to surrender his or their permit and abandon the premises covered thereby, then, if no claims under the bonds or undertakings are filed within two (2) years, the City Secretary shall return the bonds or undertakings and/or securities theretofore furnished by the permittee in connection with such permit. If no claims are filed within such time, upon the satisfaction or defeat of such claims, such bonds or undertakings and/or securities shall thereupon be returned to the permittee or his assigns.

...

Sec. 16-19. Issuance of permit, generally.

- (a) Except as provided in section 16-13, if an application for a permit under this chapter is found by the City Council to comply in all respects with the terms of this chapter, the City Secretary shall be authorized to issue a permit for the drilling, completion and operation of the well applied for. The granting and issuance of a permit for a well on a drilling block as provided in this chapter shall automatically operate as a rejection and denial of all other pending applications for wells upon the drilling block involved, or any portion or portions thereof.
- (b) Each permit shall:
 - (1) By reference have incorporated therein all the provisions of this chapter with the same force and effect as if this chapter were copied verbatim in such permit.
 - (2) Specify the location of the proposed well or injection facility with particularity to lot number, block number, name of addition or subdivision section line or other available correct legal description.
 - (3) Contain and specify that the term of the permit shall be for a period of one year from the date of the permit and so long thereafter as oil and gas are produced or until such time as the permittee has permanently abandoned the operation of such well or facility for which the permit was issued.
 - (4) Contain and specify such other terms and provisions as may be necessary in the particular case to accomplish the purposes of this chapter.
 - (5) Specify the hole size, casing program, cementing program, and total depth to which the well (if any) will be drilled.
 - (6) Contain and specify that no actual operations shall be commenced until the permittee shall file and have approved an indemnity bond in the designated principal amount as defined in section 16-16.

Such permit, in duplicate originals, after approval of the City Council, and prior to delivery to the permittee shall be signed by the permittee (with one original to be retained by the city and the other by the permittee); and when so signed, it shall constitute the permittee's drilling and installation permit, as well as the contractual obligation of the permittee to comply with the terms of such permit, bond, and of this chapter.

- (c) If, after a permit is issued and prior to commencement or completion of the operation, the permittee desires to change the work plan set forth in the original application, the permittee shall apply to the City Council for approval of such change. If the requested amendment does not substantially enlarge the scope of operations nor adversely affect public safety, the City Council may approve such change in the work plan, and the permit is thereby amended to the extent the changes are approved. If the permittee desires to substantially change the permit conditions, the permittee shall file an amended application to be considered in the manner set forth in this article for an original application.

...

Sec. 16-23. Termination of permit for failure to commence or cessation of drilling.

A permit issued under this chapter shall terminate and become inoperative without any action on the part of the City Council unless, within twelve (12) months from the date of the issue, actual drilling of the well is commenced. After the drilling of the well is commenced, the cessation of drilling operations prior to the completion of the well for a period of six (6) months shall operate to terminate and cancel the permit and the well shall be considered as abandoned for all purposes of this chapter and it shall be unlawful thereafter to continue the operation or drilling of such well without the issuance of another permit. If the well is completed as a producer and thereafter ceases to produce, the permittee shall obtain a drilling permit as provided in this chapter to conduct deepening or side tracking operations on the well.

Secs. 16-24, 16-25. - Reserved.

ARTICLE IV. PIPELINES

Sec. 16-76. Generally.

Definitions. For the purposes of this article the following words, terms, and phrases shall have the meanings ascribed thereto, unless the context of their usage clearly indicates otherwise.

City means the City of Alvin, Texas, a home rule municipal corporation of the State of Texas, and shall include the officers, agents, employees, and representatives of said city.

City Council means the governing body of the City of Alvin.

City Engineer means a person appointed by the City Manager who is duly authorized under the provisions of the Texas Engineering Practice Act.

Commodity means any substance capable of being transmitted through a pipeline which is, or may become, flammable, toxic or otherwise hazardous to human, animal or plant health or life.

Construction means placement, construction, installation, connection, extension, operation, alteration, substantial improvement, replacement, or repair, maintenance, or removal of any facility.

Director of Public Services means not only the city director of public services, but also the utility superintendent of public services, the city building official, the city code compliance

officer, City Engineer, and any other person designated as such from time to time by the City Council.

Emergency means a situation which, unless immediate remedial action is taken, will likely result in harm to public health, safety, and/or welfare.

Facility or facilities means and includes, but shall not be limited to, pipelines, flow lines, line pipe, and any related valves, switches, vaults, pipe compressors, pumping units, metering and delivery equipment, breakout tanks, and appliances, attachments, equipment, structures, fixtures, appurtenances, and such other objects, devices, or other items of tangible property, which are designed, constructed, installed, placed, used or operated in, upon, over, across, above, or below public rights-of-way and in any way related to any pipe or pipeline. However, a private, individually-owned connection and/or attendant downstream service line or device, through which a utility service is received by the end user owning same, for which required permits have been issued under applicable building, plumbing, electrical, or other codes of the city, shall not be deemed as facilities hereunder.

Low pressure means a distribution system in which the gas pressure in the main is substantially the same as the pressure provided to the customer.

Main means a distribution line that serves as a common source of supply for more than one service line.

Mineral well in this article means any hole or bore to any sand, horizon, formation, strata or depth for the purpose of producing any oil, gas, liquid hydrocarbon, brine water, sulphur water or use as an injection well for secondary recovery, or any of them.

Permit means an ordinance of the city enacted pursuant to this article, authorizing certain construction, substantial improvement, replacement or repair of a facility.

Person means an individual, corporation, association, partnership, joint venture, firm, limited liability partnership, joint-stock company, association, governmental entity other than city, or any other public or private entity.

Pipeline means a line of pipe and any affiliated pumps, valves, control devices, and other facilities for conveying a commodity or commodities.

Public rights-of-way or public right-of-way means the surface, air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement, or similar property within the corporate limits of the city, and in which the city holds a property interest (fee title, easement or otherwise), or over which the city holds and exercises a right of management or control, and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of facilities.

Shut-off valve means any device installed in a pipeline and used to stop the conveyance of a commodity or commodities through a pipeline.

Substantial improvement, replacement or repair shall be determined by the City Engineer dependent on the specific change.

User means a person having, owning, leasing, using, or operating facilities within or crossing a public right-of-way.

Sec. 16-77. Proximity of structures to pipelines and mineral wells.

(a) *Restriction of the construction of structures near existing pipelines.*

- (1) No residential, commercial, or industrial structure, other than structures necessary to operate the facility or pipeline, shall be erected at or moved to a location nearer than fifty (50) feet to any facility or pipeline, other than a low-pressure distribution system pipeline as defined herein.
- (2) No residential, commercial, or industrial structure shall be erected nearer than one hundred fifty (150) feet to any mineral well or related facility other than structures necessary to operate the mineral well or facility.
- (3) This subsection (a) shall not apply to any structures existing before the effective date of this article.
- (4) This section shall also require that a person, firm or corporation that desires to erect or move a structure to a location nearer than one hundred (100) feet, but not closer than fifty (50) feet, from any facility or pipeline must execute and file an acknowledgement, indemnification, and hold harmless agreement in accordance with Section 5-52.

(b) *Restriction of construction and operation of pipelines and facilities near existing structures.*

- (1) No facility or pipeline, other than a low-pressure distribution system pipeline as defined herein, shall be erected at or moved to a location nearer than fifty (50) feet to any residential, commercial, or industrial structure, other than structures necessary to operate the facility or pipeline.
- (2) Exceptions to restriction of pipeline and facilities.
 - a. This subsection (b) shall not apply to any facility or pipeline existing before the effective date of this article.
 - b. This subsection (b) shall not apply to any facility or pipeline that meets all of the following criteria:
 1. The facility or pipeline is now or hereafter placed at a location in a pipeline right-of-way or pipeline easement that exists before the effective date of this article;
 2. The facility or pipeline could otherwise be lawfully placed at said location;
 3. Due to the width of the pipeline right-of-way or easement, the other pipeline(s) in the right-of-way or easement, or any other factor except this subsection (b), the facility or pipeline in question could not lawfully be placed at a location within the right-of-way or easement that complies with this subsection (b); and
 4. This subsection (b) would restrict the placement of the facility or pipeline, without this grandfather clause (subsection (b)(2)a.).

Sec. 16-78. Permit required.

It shall be unlawful for any person to cause, permit, or participate in the construction of any facility within or crossing the city limits of Alvin after the effective date of this article, except in compliance with a permit granted by the city in accordance with this article. The procedure for obtaining a permit is as follows:

- (1) The applicant shall file an application for a permit pursuant to this article and pay the required fees before any review may be performed by the city.
- (2) The City Engineer reviews the application and makes recommendations to the City Council.
- (3) The City Council considers the application for a permit. If the permit is granted, the City Council enacts an ordinance granting the permit.
- (4) The user shall file with the City Engineer the insurance policies, guaranty of performance, and other prerequisites required by this article or any applicable law.
- (5) The City Engineer, in consultation with the director of public services and city attorney, shall issue a notice to proceed with the construction under the permit, but only after all prerequisites have been satisfied.
- (6) The user shall perform the construction under the permit within the time specified in the permit.
- (7) The user shall file as-built drawings including GPS coordinates of the facilities, in digital format, with the City Engineer pursuant to this article.
- (8) Nothing in this article shall be construed to excuse the applicant user, or any other person from any other or more detailed requirement or any applicable law.
- (9) Upon mutual agreement by user and city, this permit mechanism for use of rights-of-way may be used for construction of a facility on city-owned fee property or easements.

...

Sec. 16-80. Application for permit.

An applicant for a permit shall file three (3) copies of the application with the City Engineer. The application shall include the following:

- (1) The name and legal status of the user;
- (2) The name, address, telephone number, e-mail address, and fax number of the individual(s) who will be contact(s) for the user;
- (3) The name, address, telephone number, e-mail address, and fax number of the individual(s) who will be the contact(s) for the field location of the facilities;
- (4) The name, address, telephone number, e-mail address and fax number of an emergency contact who shall be available for twenty-four (24) hours every day, and who shall furnish immediately upon request information concerning the common name of the commodity carried by the pipeline and the pressure in the pipeline;

- (5) The commodity proposed to be transported through the facility and the maximum pressure and temperature under which the commodity will be transported;
- (6) A scale drawing accurately showing the proposed location, course, alignment, and depth of the proposed pipeline and the location of all shut-off valves;
- (7) An alignment map, showing the precise location of all existing and proposed streets, as designated on the master plan of the city or on the official map of the city, across, along, or under which the pipeline is proposed; and
- (8) A written description of the proposed construction, including construction drawings and landscaping/tree removal and replacement plan;
- (9) The manner, means, and methods of the proposed construction and the types, sizes, and specifications of the materials to be used;
- (10) The proposed schedule for the construction, including, but not limited to, the proposed dates for commencement and completion of the construction and the proposed dates for any street closures;
- (11) Proof of insurance and a guaranty of performance, as required by this article;
- (12) A written certification signed by the applicant, stating that the information in the application is true and complete; and
- (13) The application fee as required by this article.

...

Section 2. That except as amended herein all other provisions of Chapter 16 of the Code of Ordinances, City of Alvin, Texas, shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 3. Penalties. Any person, firm, entity or corporation violating any provision of this Ordinance, as it exists or may be emended, shall be guilty of a misdemeanor, and on conviction, shall be fined in an amount not to exceed \$500. Each continuing day's violation shall constitute a separate offence. The City of Alvin retains all legal rights and remedies available to it pursuant to local, state and federal law.

Section 4. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Incorporation into Code of Ordinances. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances, City of Alvin, Texas, as an addition, amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 6. Effective Date. This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of Chapter 52 of the Texas Local Government Code and the City of Alvin Charter.

Section 7. Open Meetings Act. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and the public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*. Notice was also provided as required by Chapter 52 of the *Texas Local Government Code* and the *City of Alvin Charter*.

Section 8. Publication. The City Secretary of the City of Alvin is hereby directed to publish this Ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the City of Alvin Charter.

PASSED and APPROVED on the 17th day of March 2022.

THE CITY OF ALVIN, TEXAS

ATTEST

By: _____
Paul A. Horn, Mayor

By: _____
Dixie Roberts, City Secretary