

ORDINANCE NO. 19- 071

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING CHAPTER 25, "OIL AND GAS," OF THE CODE OF THE CITY OF GALVESTON, 1982; AS AMENDED, UPDATING THE CODE REGARDING PREEMPTION BY THE STATE OF REGULATIONS ON OIL AND GAS OPERATIONS AND ALLOWING REGULATIONS BY THE CITY OF ABOVE GROUND RELATED ACTIVITIES, INCLUDING REGULATIONS UNDER SPECIFIC CIRCUMSTANCES, IN ACCORDANCE WITH STATE LAW; PROVIDING FOR AN EFFECTIVE DATE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, except as provided in the Texas Natural Resources Code (TNRC) §81.053, a municipality or other political subdivision may not enact or enforce an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision; and,

WHEREAS, the TNRC allows a municipality or other political subdivision to enact, amend, or enforce an ordinance or other measure that:

- (1) regulates only aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements;
- (2) is commercially reasonable;
- (3) does not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator; and,
- (4) is not otherwise preempted by state or federal law.

WHEREAS, staff desires to keep the City of Galveston current with state law and recommends amending Chapter 25, "Oil and Gas" of "The Code of the City of Galveston 1982, as amended", as reflected in Section 2 below; and,

WHEREAS, the City Council of the City of Galveston deems it to be in the public interest to amend Chapter 25 "Oil and Gas" of The Code of the City of Galveston 1982, as amended.

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. The Code of the City of Galveston 1982, as amended, Chapter 25 "Oil and Gas" is amended to read and provide as follows:

Sec. 25-1. - Purpose and scope of chapter.

(a) *Purpose.* The city council finds that there have been drilling and production operations for oil and gas within the corporate limits of the city and that there is a likelihood of drilling and production operations and other operations incident to exploration, drilling, production, transportation and processing and incident to the existence of such operations, which should be regulated because of the fire hazards created by such operations, as well as the menace of unsanitary conditions, noise and possibility of injury to persons and property and threats to the health, safety and welfare of the public in general for which the police power of the state, which is delegated to this city is to be and is hereby invoked in aid of the enforcement.

(b) *Scope.* This chapter regulates:

(1) only aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements;

(2) is commercially reasonable;

(3) does not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator; and,

(4) is not otherwise preempted by state or federal law.

shall govern the exploration, drilling, production, transportation, processing and storage of hydrocarbons and matters incident thereto in all areas within the corporate limits of the city.

Sec. 25-2. - Definitions.

Drilling block: A geographical area of the city the boundaries of which are determined pursuant to the provisions of section 25-3 prior to the time a permit to drill has been granted.

Oil and gas facility: shall mean any fixed physical facility (permanent or temporary), whether onshore or offshore, which is used on either a regular or an adjunct basis to perform oil and gas exploration, drilling, production, preliminary processing, storage and transportation.

Oil and gas operations: shall mean all operations and activities which are a regular part of oil and gas exploration, drilling, production, preliminary processing, and transportation (except retail distribution of natural gas pursuant to franchise agreement with the city).

Wetlands: shall mean those areas that are periodically inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for reproduction and growth in saturated soil conditions.

Sec. 25-3 - Drilling blocks and production units.

(a) —*Drilling blocks.* In order that the purpose and intent of this chapter, as stated in section 25-1, shall be properly carried out and in order that future drilling for oil and gas within the city may proceed in an orderly manner, and for convenience and clarity in identifying the location of approved or proposed drilling locations, all areas of the city easterly of 103rd Street have been divided into drilling blocks as shown on map Exhibit A which is incorporated into this chapter by reference for all purposes. The drilling blocks shown on said Exhibit A are identified by number. The exact description of any such drilling block

shall be determined in the manner specified in subsection (c) hereof and shall contain the approximate number of acres as shown on Exhibit A. With respect to all areas of the city westerly of 103rd Street and any other area of the city not shown on Exhibit A above, the petroleum superintendent shall determine the appropriate boundaries of a drilling block at the time an application for a drilling permit is filed. In so determining said boundaries, the petroleum superintendent shall assign each drilling block an identification number; and drilling blocks for production of gas shall be approximately seven hundred four (704) acres and drilling blocks for oil shall be approximately forty (40) acres each.

(b) —*Production units.* After a permit is granted to a permittee to drill a well on a drilling block, such a drilling block shall be thereafter called a production unit. The acreage content and number of any such production unit shall be the same as that theretofore given to the drilling block on which such a permit has been granted. No application to drill on any drilling block will be approved unless the applicant shows that he owns or controls by voluntary agreement operating rights with respect to not less than fifty (50) percent in surface area of the production unit; and, if less than all of the operating rights in a particular tract are owned or controlled by applicant, the surface acreage as to such tract shall be proportionately reduced in making the contribution. Except as may be provided for herein, nothing in this chapter shall prevent a permittee who meets the requirements of this paragraph from drilling an additional well or wells on a production unit unless the petroleum superintendent or city council refuses to grant a permit for such additional well or wells for any of the reasons hereinafter set forth.

(c) —*Survey, description of drilling blocks.* Each applicant is required by section 25-5 to file a drilling application with the petroleum superintendent, and such application shall include a metes and bounds description of the drilling block proposed to be covered by the permit. The metes and bounds description shall be prepared by a licensed surveyor and shall conform, to the greatest extent reasonably possible, to the outlines of the drilling block shown on said Exhibit A or the drilling block determined by the petroleum superintendent, as the case may be. When so approved, the description so furnished shall become the official legal description of the designated drilling block and the succeeding production unit resulting from the granting of the permit to drill a well on such a drilling block. The petroleum superintendent shall take into account the metes and bounds descriptions of all production units previously approved in determining the propriety of the description furnished in connection with any permit application in order to obtain ultimate conformity to the pattern shown on said drilling block map or maps.

Sec. 25-4. — Oil and gas master plan; well locations.

(a) —*Introduction.* At an election held on August 12, 1978, the electorate of the city adopted an oil and gas master plan, which plan set forth the policies of the city relating to regulation and development of oil and gas operations and facilities within the city. A copy of said plan, as adopted, is available in the office of the city secretary. The provisions of subsections (a) through (g) of this section comprise said master plan, are supplementary to the provisions of the city's comprehensive zoning ordinance (Chapter 25, Code of the City of Galveston, 1960, as amended [not reproduced in this volume]) and may be amended only as provided in subsection (g) hereof.

(b) —*Definitions.* For purposes of this section, the following terms shall have the following meanings:

- (1) —"Oil and gas facility" shall mean any fixed physical facility (permanent or temporary), whether onshore or offshore, which is used on either a regular or an adjunct basis to perform oil and gas exploration, drilling, production, preliminary processing, storage and transportation.
 - (2) —"Oil and gas operations" shall mean all operations and activities which are a regular part of oil and gas exploration, drilling, production, preliminary processing, and transportation (except retail distribution of natural gas pursuant to franchise agreement with the city).
 - (3) —"Wetlands" shall mean those areas that are periodically inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for reproduction and growth in saturated soil conditions.
- (e) —*Operations, etc., prohibited in certain locations.* Except to protect the public safety in time of emergency, all oil and gas facilities and oil and gas operations, except pipelines, are prohibited in the following locations:
- (1) —Within one and one-half (1½) miles of the shore line of the Gulf side of Galveston Island.
 - (2) —Onshore, east of 103rd Street, with the following exceptions:
 - a. —Pelican Island;
 - b. —Airport and new golf course;
 - c. —Light and heavy industrial zones as presently or hereafter established by ordinance;
 - d. —U.S. government reservation;
 - e. —South of the Seawall and east of extension of the westernmost boundary of the U.S. government reservation, provided the proposed site is more than three hundred (300) feet south of the Seawall and drilling is not otherwise prohibited.
 - (3) —Within three hundred (300) feet of any park or residential, commercial, industrial, institutional, public or other building regularly or periodically occupied by persons, provided that the proposed bore hole for all new drill sites shall be prohibited within five hundred (500) feet of such buildings.
 - (4) —In any wetlands or within fifty (50) feet thereof.
 - (5) —Within tidal areas in water depths of less than four (4) feet below mean low water, Gulf Coast Low Water Datum.
 - (6) —Within Offatt's Bayou, English Bayou, or any lake.
 - (7) —Onshore and offshore on the channel side of the South Jetty.
 - (8) —Onshore from the western end of the Seawall to the Galveston Island State Park, south of a line lying three hundred (300) feet north of the open beaches surveyed vegetation line (but in no event, south of a line three hundred (300) feet north of the base of the most northerly sand dune).

- (9) — Onshore from the easternmost boundary of Galveston Island State Park westward, south of a line lying fifty (50) feet north of the northern right-of-way line of FM 3005, to the westerly city limits.
- (10) — Within fifty (50) feet of a travelled public or private street right-of-way.
- (11) — Within any other areas deemed appropriate by city council, where, upon public hearing, such prohibition is found to be consistent with the orderly development and best interest of the city.
- (d) — *Spacing.* Minimum spacing for any offshore well site within six (6) miles of the shoreline (whether the site shall include one or more wells) shall be three-fourths of a mile.
- (e) — *Drilling.* No offshore drilling in the Gulf within six (6) miles of the shoreline shall commence during the period from March 15 through September 15 of any year.
- (f) — *Notification.* All persons owning property (surface estate) within three hundred (300) feet of any proposed onshore oil and gas facility or operation for which an application for permit or other approval has been filed with the city, shall be given notice of such proposed facility or operation as provided herein. Such notice shall state the time, date and location of hearing to consider said application, and shall be given by mailing a copy of the notice properly addressed to each such person at his address shown on the most current tax rolls of the city. Where the proposed facility is a drilling operation, such notification shall extend to owners within five hundred (500) feet of said facility. In addition, a notice of any such proposed facility or operation shall be published in the official newspaper of the city, and such notice shall also set forth the time, date and place for hearing to consider such application. The hearing required hereunder may be conducted simultaneously with the hearing required to be held under the city's comprehensive zoning ordinance relating to issuance of specific use permits for extraction of petrochemicals.
- (g) — *Amendment.* Subsections (a) through (g) hereof, inclusive, may be amended only upon the favorable vote of the electorate of the city in an election held to consider any such amendment.
- (h) — *Streets, alleys and easements.* No well shall be drilled within or at any surface location nearer than fifty (50) feet from any utility easement unless a variance is approved by the petroleum superintendent.
- (i) — *Location near cemeteries and parks.* No well shall be drilled at any surface location which is on or less than three hundred (300) feet from the exterior boundary line of land utilized for cemeteries or public parks.
- (j) — *Deed restriction provisions.* Nothing contained in this chapter shall be construed as authorizing the drilling of any well where the operator has no legal authority to do so. It is expressly provided that no well shall be drilled at any location where there are of public record legally enforceable deed restrictions or covenants prohibiting the drilling of such well.
- (k) — *Surface rights.* Neither this chapter or any permit issued hereunder shall be interpreted as granting any right or license to the permittee to enter upon or use any land nor shall it limit or prevent the free right of the owner of such land to contract for any payment of any kind for damages or for rights or privileges with respect thereto.

(l) — *Well location partly within drilling block.* A directional well may have a surface location in one drilling block and be bottomed under another drilling block provided that the bottom hole location meets the requirements of the railroad commission.

(m) — *Landscape.* Contemporaneously with the issuance by the city council of a specific use permit for extraction of petrochemicals; under the city's comprehensive zoning ordinance; the city council shall approve a landscaping plan for any proposed drill site. Under such plan, trees, shrubs and other vegetation which shield the area from public view may be required to be planted and maintained at the site. All requirements of any such adopted plan shall be met and completed within ninety (90) days from time of completion of drilling operations; subject to extension authorized by the director of urban planning and transportation for good cause. This subsection (m) shall not be construed to waive or replace any other provision of this chapter relating to the requirement that fences be erected around completed drill sites to prevent unauthorized intrusion.

Sec. 25-5.— Drilling and operating permits:

(a) — *Permits required.* Any person, firm or corporation desiring to conduct drilling operations in the city shall obtain the following permits:

(1) — Specific use permit pursuant to the provisions of the city's zoning ordinance, Chapter 25 of the 1960 Code; and,

(2) — *Drilling permit* issued pursuant to the provisions of this chapter.

It shall be unlawful for any person, acting either for himself or as an agent, employee, independent contractor or servant of any other person to commence to drill, to drill or to operate any well or to assist in the drilling, completing or operating of any such well for which a permit is required hereunder if a lawful permit therefor has not been obtained.

(b) — *Application for drilling permit.* An application shall be filed in duplicate (with all exhibits attached securely thereto) in the office of the petroleum superintendent for each well to be drilled, redrilled or drilled deeper. Such application shall be signed and the accuracy of the contents thereof shall be sworn to before a notary public by the applicant or some representative of applicant having legal authority to enter into contracts binding upon the applicant, and the applications shall include (as exhibits constituting a part of the same, where appropriate) the following:

(1) — The name and address of the applicant and, if the applicant is a corporation, the name and address of the person upon whom process may be served for such corporation and, if the applicant is a partnership, the names and addresses of the general or managing partners.

(2) — The name, address and telephone number of a person designated as the agent of the applicant to receive for the applicant all process or citation notices and demands hereunder. If appropriate, more than one telephone number should be furnished.

(3) — The applicant shall file with the petroleum superintendent as Exhibit 1 an affidavit stating the name of the applicant, the numerical designation of the drilling block or the production unit (if for an additional well on a production unit) covered thereby, the metes and bounds description reflected by the official survey thereof as approved by the petroleum superintendent as required in section 25-3(c), hereof, and a statement to the effect that to the best of the knowledge and belief of the applicant his application for a

permit to drill complies with all of the requirements of this chapter. Such affidavit shall contain at least the information included on the example affidavit which follows:

AFFIDAVIT

I, _____, the undersigned affiant, having been duly sworn by the notary public whose name and seal appear below, on my oath certify as follows:

1. —I, as applicant (or as legal representative of the applicant, having due and legal authority to enter into contracts binding upon said applicant) have submitted an application for permit to drill a well, as defined in Chapter 25 of the Code of the City of Galveston, to a depth of not more than _____ feet below the surface of the ground, which well is proposed to be located within Drilling Block No. _____, * as designated by said Code of the City of Galveston, and which drilling block is more particularly described by metes and bounds as follows:

(Metes and bounds description of drilling block including total number of acres contained therein)

2. —The above metes and bounds description of Drilling Block No. _____ was prepared by a licensed land surveyor.

Dated this _____ day of _____ / _____ / _____, 19____.
Notary _____ public _____ in _____ and _____ for
Galveston County, Texas

The State of Texas County of Galveston

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated. Given under my hand and seal of office this the _____ day of _____ / _____ / _____, A.D., 19____.
Notary public in and for Galveston County, Texas

*If the application is for an additional well on a production unit, the words "Production Unit No. _____." shall be substituted for the "Drilling Block No. _____."

(4) —Applicants shall file, in addition to the metes and bounds description to be included in the above affidavit, a plat of the drilling block proposed to be covered by the permit, which plat shall be prepared and certified by a licensed land surveyor and which shall show the proposed surface location of the well, together with distances from said well to the exterior boundary lines of said drilling block. Said plat shall show:

a. —Distances from the proposed surface well location to any structures or residences intended for human occupancy and any lot or tract of land zoned for residential purposes which are located within five hundred (500) feet from said surface location and

b. —Shall show whether or not such well location is in compliance with the requirements of section 25-4 and

c. —Shall show the location of all wetlands situated within fifty (50) feet of said facilities.

- (5) — Proposed total depth of the well.
 - (6) — Proposed casing and cementing program of the well.
 - (7) — Copies of railroad commission Form 1 and railroad commission drilling permit shall be attached as Exhibits 2 and 3.
 - (8) — Insurance certificate dated not more than ten (10) days prior to filing the application shall be attached as Exhibit 4. This certificate shall indicate that the applicant has complied with at least the minimum insurance requirements specified in this chapter at section 25-7.
 - (9) — A copy of such bonds as required by this chapter shall be attached to Exhibit 5. If no bond is required, applicant shall attach as Exhibit 5 a statement to the effect that no bond is required with a brief statement pertaining to the reason for the exception to the bond requirement.
 - (10) — All applications for permits to drill shall be accompanied by a filing and permit fee of seven thousand five hundred dollars (\$7,500.00), in cash or cashier's or certified check made payable to the "City of Galveston."
 - (11) — The application for a permit shall include a statement by the applicant authorizing the city to expend such funds as may be necessary under the circumstances to regain well control in accordance with the terms and provisions of section 25-6(O).
 - (12) — Provided, however, that no permit shall be issued to any applicant for the drilling of any well that will produce oil, gas or other hydrocarbons singularly or in connection with water from any depth less than six thousand (6,000) feet unless and until a plan has been submitted and approved by the petroleum supervisor and the city manager to prevent any subsidence as a result of such production.
 - (13) — A statement setting forth the fact that the Galveston city council has issued a specific use zoning permit for the drilling of a well on the proposed site, to whom such specific use permit was issued, the date of issuance, together with any conditions or stipulations attached thereto, together with a copy of said specific use permit.
- (c) — *Recompletion operations.* No application for a permit is required for recompletion and/or plugging and abandoning operations. However, a five-day prior notice accompanied by a description of the proposed program shall be filed with the petroleum superintendent. A copy of the appropriate railroad commission report shall be filed with the petroleum superintendent within thirty (30) days after the recompletion and/or plugging and abandoning of the well.
- (d) — *Well service operation.* No application for a permit or report is required for well service operations. However, a five-day prior notice accompanied by a description of the proposed program shall be filed with the petroleum superintendent.
- (e) — *Shut-in well reports.* When shut-in well reports are required to be furnished to the railroad commission, copies thereof shall be furnished to the petroleum superintendent.
- (f) — *Application for additional drilling permits on a production unit.* Applications for additional drilling permits on a production unit shall be filed in the same manner and shall contain the same information as that required in applications for the drilling permit covering the original

drilling block, and the fee for each such additional well shall be seven thousand five hundred dollars (\$7,500.00).

(g) — *Application meeting ordinance requirements shall be approved by petroleum superintendent.* Upon receipt of an application for a permit to drill and operate a well, the petroleum superintendent shall date and set up a file for each such application and examine same for compliance with this chapter. If the application is in compliance with all provisions of this chapter and the petroleum superintendent finds that the proposed location and the drilling of such well will not violate any provision hereof, then he will issue a permit within ten (10) days after receipt of the application. In the event the petroleum superintendent has found cause to deny the permit, then he shall within said ten (10) days return the original copy of the application and filing fee to applicant and inform the applicant in writing of his reasons for such denial. The petroleum superintendent shall have the right to approve or deny an application upon the grounds contained in subsection (h)(5), below. In such a case, the applicant may then rectify the reasons for denial of permit by the petroleum superintendent and/or appeal to the city council through the procedure described in subsection (h).

(h) — *Procedure where permit is denied by petroleum superintendent.*

(1) — If the petroleum superintendent does not approve a permit and the applicant desires consideration by the city council, the applicant may appeal his application to the city council and thereafter the city council can approve or deny said application in accordance with this paragraph.

(2) — The original copy of the application, accompanied by the filing fee and a copy of the petroleum superintendent's written denial, shall be forwarded to the city secretary for hearing by the city council. The date of the hearing shall be set by the city council.

(3) — Notice of the date, time, place and subject matter of the hearing before the city council shall be given by the city secretary, at the applicant's expense, by publication at least once in a daily newspaper published in the city at least five (5) days prior to the date of the hearing. Such notice shall be substantially in the following form:

Notice is hereby given that _____ ; as applicant, pursuant to the provisions of section 5 of Chapter 25 of the Code of the City of Galveston, did on the _____ day of _____ / _____ / _____ ; 19 _____ ; file with the city secretary an application for a permit to drill and/or operate a well upon Galveston Drilling Block No. _____ : Said application and a map showing the lands comprising said drilling block and the exterior boundaries thereof are on file in the office of the city secretary and are at said office subject to the examination of all persons during regular office hours. A hearing upon such application will be held at the City Hall by the city council on the _____ day of _____ / _____ / _____ ; 19 _____ ; at _____ o'clock _____ .m., and at such continued hearing or hearings, if any, as the city council may in its discretion designate.

Proof of publication of such notice shall be made by the printer or publisher of the newspaper publishing the same by affidavit filed with the city secretary, and such affidavit shall be prima facie evidence of such publication.

(4) — In the event a majority of the members of the city council are not present at a hearing on an application for a permit, or, at the discretion of the members of the city council, if

a majority of the members thereof are present at the hearing, the hearing may be continued to a designated time and date. If the foregoing provisions conflict with the existing procedure rules with respect to a quorum and the conduct of business at such a hearing, the said rules shall govern the action of the city council at any such hearing.

(5) —Where a particular location and the character and value of the permanent improvements already erected on or approximately adjacent to the particular location in question make such location dangerous and/or undesirable, and where the land and surroundings are adapted for school, college, university, hospital, park or civic purpose or for health or safety reasons, or any of them, or where a well on a 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, the city council shall have the power to refuse any application for a permit to drill a well at any particular location on any drilling block or on any production unit superseded thereby. The council may grant a permit on such reasonable conditions as are deemed necessary to protect all persons and property as may be affected by the drilling and production operations. When the council refuses to issue a permit for the particular drilling location on a drilling block or production unit as applied for by the applicant, it may, in lieu thereof, designate as the drilling location a different drilling site on the drilling block or production unit subject to the applicant obtaining all requisite leases, contracts and surface permissions for the designated substituted drilling site.

(6) —The city secretary shall furnish a copy of the action of the city council to applicant and a copy to the petroleum superintendent within three (3) days after the council has made a decision. If for any reason the permit as applied for is not granted or if the applicant refuses the permit because of any condition imposed therein, the application and filing fee will be returned to the applicant.

Sec. 25-6. — Rules for drilling and producing operations.

(a) —*Compliance with laws, rules and regulations.* Any violation of any valid law or of any valid rule, regulation or requirement of any state or federal regulatory body having jurisdiction with reference to drilling, completing, equipping, operating, producing, maintaining, or abandoning oil or gas wells or related appurtenances, equipment or facilities, or with reference to firewalls, fire protection, blow-out protection or safety of persons or property shall be a violation of this chapter.

(b) —*Pits.* The use of earthen pits for reserve mud or waste material such as drilling mud, contaminated mud, drill stem test returns and the like are not permitted.

(c) —*Derricks and rigs.* No operator shall use or operate in connection with the drilling or reworking of any well, any wooden derrick or steam-powered rig, or permit any drilling rig or derrick to remain on the premises or drill site for a period longer than sixty (60) days after completion or abandonment of any well. All engines shall be equipped with mufflers in good operating condition.

(d) —*Drilling fluid.* The bore hole of any well while being drilled or reworked shall at all times contain drilling fluid of a weight and viscosity which a reasonably prudent operator would use to keep the well under control.

(e) —*Blow-out preventers.* After setting and cementing surface casing, two (2) dual control hydraulically operated ram-type blow-out preventers equipped with both blind rams and pipe rams and having a working pressure rating equal to the maximum well-head pressure expected, shall be used for all drilling or completion operations involving the use of drill pipe or tubing after the surface casing has been set. For wells drilled below nine thousand (9,000) feet, an annular or bag-type blow-out preventer shall be used in addition to the two (2) dual controlled blow-out preventers above specified. During drilling and completion operations, the blow-out preventers shall be tested at least once every twenty-four (24) hours and crews shall be required to alternate in making such tests. Note of such tests should be made on the driller's log. All control equipment shall be in good working order and condition at all times. The power source for operation of the blow-out preventers shall be a separate power source located remotely from the rig substructure and shall include an accumulator with one hundred twenty-five (125) percent of the capacity sufficient to operate all the blow-out preventers at least one time. The ram-type blow-out preventers shall also be equipped with mechanically operated closing devices with appropriate extension handles accessible on the outside of the drilling rig substructure to be used in the event of failure of the hydraulic power normally used for operation of the rams. A kill line hookup and a choke manifold assembly with at least two (2) choke controls, a master valve, and a gauge shall be included in each blow-out preventer assembly. This assembly shall have a working pressure rating equivalent to the blow-out preventer equipment and shall be kept in good operating condition at all times for the purpose of controlling the well at all times. During drilling, all wells shall be fitted with an upper kelly cock in proper working order to close in the drill string below the hose and swivel when necessary for well control. A lower kelly safety valve shall be installed at the bottom of all kellys. Such valve shall be designed so that it can be run through the blow-out preventers. There shall be maintained at all times on the rig floor, safety valves to include:

(1) — Full opening valves in similar design as the lower kelly cock safety valve.

(2) — Inside blow-out preventer valve with wrenches, handling tools, and necessary subs for all drilling pipe sizes and tubing sizes in use; such safety valves to be installed when needed for well control.

An exception to any requirement may be granted by the petroleum superintendent with the approval of the city manager.

(f) —*Surface casing.* All operators shall be required to set and cement a sufficient amount of surface casing to properly protect all fresh water sand in accordance with any governmental agency having jurisdiction. The length of surface casing shall in no case be less than one thousand (1,000) feet or less than fifteen-hundredths times the length of the next string of pipe proposed to be set. Notification to the petroleum superintendent must be given and permission granted before the well is drilled deeper than the originally proposed depth for any casing string to be run subsequent to the setting of the surface casing. The surface casing shall be of new casing meeting API specifications and designed as to tension, collapse, and burst according to accepted engineering practices and safety factors. A volume of cement shall be used, which according to accepted engineering procedures, is calculated to fill the annular space between the surface casing and well bore to the surface of the ground, and the cement shall be allowed to stand for a minimum period of twelve (12) hours before the plug is drilled. If cement returns to the surface are not obtained, the upper portion of the surface

easing shall be adequately cemented from the surface. The surface casing and blow-out preventer equipment shall be pressure tested, after notification to the petroleum superintendent of the time of testing, in accordance with testing procedures set out in the railroad commission rules. Exceptions may be granted by the petroleum superintendent with approval of the city manager.

- (g) — *Production and protection casing.* The producing and protection strings of casing shall be of new pipe meeting API specifications and designed as to tension, collapse, and burst according to accepted engineering practices and safety factors. Cementing shall be by the pump and plug method and the volume of cement, which is calculated according to accepted engineering practices, shall be sufficient to fill the annular space between the casing and the well bore to a point at least six hundred (600) feet above the shoe or the highest producing zone, whichever is the shallower depth. Cement shall be allowed to stand for a minimum of twelve (12) hours before drilling the plug. Casing centralizers shall be run in the vicinity of any formations containing hydrocarbons and near the bottom of the string. An exception may be granted by the petroleum superintendent with approval of the city manager.
- (h) — *Drillstem tests.* No operator shall conduct or allow to be conducted any swabbing operations or the taking or completion of any drillstem test except during daylight hours. Drillstem tests may be conducted only if the well effluent remaining in the drillpipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drillpipe. An exception to the requirements of this section may be granted by the petroleum superintendent with approval of the city manager.
- (i) — *Formation pressures.* No well shall be completed or operated in a zone which is reasonably anticipated to produce shut-in pressures in excess of the working pressure rating of the standard API wellhead equipment on the well.
- (j) — *Wellheads.* All wells drilled or completed after the effective date of this chapter will be equipped with casing heads, tubing heads, and wellhead connections which conform to API standards. The casing heads used on such wells shall have working pressure ratings of not less than three thousand (3,000) pounds per square inch. Tubing heads and wellhead connections used on such wells shall have working pressure ratings in excess of the well's shut-in surface pressure. All such wells having 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 having surface shut-in pressures in excess of three thousand (3,000) pounds per square inch shall be equipped with at least two (2) master valves and one wing valve, and no such well shall have threaded connections between the surface safety valve and the Christmas tree.
- (k) — *Multiple completions.* Multiple connections and tubingless completions are permitted.
- (l) — *Surface safety valves.* A high-low 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.
- (m) — *Subsurface safety valves.* All producing wells which are naturally flowing or which are located within a bay or on land within one hundred fifty (150) feet of a bay shoreline (said shoreline being defined as five-tenths (0.5) feet above United States Coast and Geodetic Datum) and which a surface elevation of less than ten (10) feet above this datum, or which are located within fifty (50) feet of a public street, shall be equipped with a subsurface safety

valve (storm choke) installed in the tubing or production string. This valve shall be pulled and inspected between April 1 and August 1 of each year and more often if desired by the operator. An affidavit of compliance with this subsection shall be filed with the petroleum superintendent by April 15 and August 15 of each year. An exception to this provision may be granted by the petroleum superintendent with approval of the city manager.

(n) —*Final report.* Within thirty (30) days after completion of any well, permittee shall file in the office of the petroleum superintendent a final report which shall be a copy of the appropriate railroad commission form(s).

(o) —*Well control.* In the event of the loss of control of any well the operator shall immediately take all reasonable steps to regain control of such well, regardless of any other provision of this chapter, and shall notify the petroleum superintendent as soon as practicable. If and when the petroleum superintendent certifies in writing to the city secretary that in his opinion (a) danger to persons or property exists because of such loss of well control, briefly describing the same, and (b) the operator is not taking or is unable to take all reasonably necessary steps to regain control of such well, the petroleum superintendent may employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expense for labor or material which the petroleum superintendent deems necessary to regain control of such well. The city shall have a valid lien against the interest in the well of all working interest owners who have voluntarily joined in the drilling of such well, to secure payment of any expenditure made by the city pursuant to any such action of the petroleum superintendent in regaining control of said well.

(p) —*Relief wells.* 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 operator. Operator shall make all reasonable efforts to notify the petroleum superintendent by telephone as soon as feasible, but failure to make such notification shall not be deemed a violation of this chapter. Within twenty-four (24) hours after the commencement of operations for the drilling of such a relief well, the operator drilling the same shall notify the petroleum superintendent that such operations have been commenced, stating fully the reasons therefor, and such operator shall within five (5) days after such commencement of operations make application for a permit to drill said well as elsewhere provided in this chapter. The operator 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 or the petroleum superintendent. No such well drilled as a relief well under the provisions of this paragraph shall be completed as a producing well unless a permit therefor shall have been issued in the same manner as is required hereunder 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 shall be plugged and abandoned unless the operator elects to complete and maintain the well as a relief well for safety purposes.

(q) —*Pipelines.* Before any excavation or construction work is commenced on any pipeline to produce, collect, process and/or transport oil, gas, water or other product to or from any well site, on, over, under, along or across any city street, sidewalk, alley or other city property, a permit shall first be obtained from the city council as required by the City Charter. All pipelines shall be laid only in accordance with the provisions of such permit, this chapter, the City Charter and other ordinances of the city. All permanent pipelines constructed after the effective date of this chapter, and replacement of any part of any pipeline existing at the

date of this chapter, shall be composed of all new pipe meeting USAS B-31.8-1968 specifications and shall be installed and tested in accordance with these specifications. Operators constructing any pipelines shall furnish the petroleum superintendent with a plat showing the proposed and as built location and size of such pipelines. No operators shall interfere with or damage existing storm sewers, drainage facilities, water lines, sewer lines or gas lines, or facilities or public utilities located on, under or across the course of any such pipeline. Temporary lines may be laid under revocable easements.

- (f) — *Storage facilities.* Steel storage tanks shall be used for the storage of liquid hydrocarbons and shall be constructed, installed and maintained in good and workmanlike manner. All such steel tanks shall meet the minimum quality and design standards of API standard 12B bolted steel tanks or API standard 12D welded steel tanks including recommended pressure and vacuum relief valves. All such tanks shall be equipped with a vent line and at the point where gas is vented to the atmosphere from said vent line a flame arrester shall be installed. Each tank or tank battery, as the case may be, shall be surrounded by an earthen fire wall located at such a distance from the tanks and of sufficient height to hold and retain at least one and one-half (1½) times the maximum capacity of such storage facilities. An operator may use, construct and operate steel conventional separators and such other appurtenances as are reasonably necessary for treating oil, condensate, or gas at each tank battery location. Such facilities shall be constructed and maintained so as to meet or exceed API standards. Each oil and gas separator shall be equipped with both a regulation pressure relief safety valve and a bursting head.
- (s) — *Fired vessels.* No fired vessel or open flame shall be located nearer than one hundred fifty (150) feet from any well or storage tank.
- (t) — *Fences.* All wells and production facilities shall be adequately protected by a fence constructed so as to prevent easy entry; however, any wellhead, tank battery, pumping unit or equipment appurtenant thereto located on any lease, tract or farm, which is adequately fenced in its entirety will require no additional fencing. Safety precautions normally taken by reasonably prudent operators shall be observed.
- (u) — *Pumping unit prime movers.* Only electric prime movers shall be permitted for the purpose of pumping wells unless a waiver of this provision is obtained from the petroleum superintendent.
- (v) — *Vented gas.* No operator shall allow gas to escape or be vented into the air except for bleed gas normally vented from standard gas-operated controls and normal stock tank vapors. All gas burned shall be burned in a manner which does not create or constitute a fire hazard and the location of the torch, pipe or other burning device, the construction thereof, the maintenance thereof, and the operation thereof shall at all times be in full compliance with such regulations as may be from time to time issued by the fire department of the City.
- (w) — *Salt water and waste disposal.* All operators shall make adequate provisions for the disposal of salt water or other impurities which may be produced along with the oil or gas in a manner which prevents the contamination of the surface or subsurface water supply of the city or the destruction of vegetation. No operator or any person engaged in the operation of any loading rack, storage or other facility or equipment used in the production, storage, transportation, sale or shipment of crude oil or other flammable petroleum product shall permit any crude oil, gas or other flammable petroleum product to spill over, overflow, leak,

drain out, escape or accumulate in any sewer or about the premises, or on any surface, or in any open surface ditch or any other exposed surface conduit, in any manner or amount which creates a potential fire hazard, or which may pollute any surface or subsurface water or damage any publicly owned land.

- (x) —*Corrosion protection.* All pipelines, flow lines, and gathering lines must be cathodically protected against corrosion by electrolysis. Wells must be electrically isolated from all metallic piping and gathering systems unless the well and such piping are cathodically protected as a system. Electrical isolation of such wells shall be done by the use of insulating sleeves and washers in flanges or insulating unions. The effectiveness of such insulating devices must be tested at least every six (6) months and the results of such tests reported to the petroleum superintendent.
- (y) —*Production equipment.* The operator shall install all production equipment in good and safe condition. All equipment should meet standard API specifications and be installed and maintained according to API recommended practices.
- (z) —*Premises to be kept clean.* All surface areas utilized by an operator shall be kept clear of high grass, weeds and combustible trash or other rubbish or debris that would, if allowed to accumulate, result in a fire hazard.
- (aa) —*Secondary recovery and pressure maintenance.* Equipment installed for the purpose of performing secondary recovery, pressure maintenance or other improved recovery operations or for automatic lease operations shall comply with all safety regulations of all ordinances of the city and the railroad commission.
- (bb) —*Signs.* Printed signs with at least five (5) inch letters reading, "DANGER, NO SMOKING OR OPEN FLAMES ALLOWED" or similar words shall be posted in conspicuous places on each well, storage tank or battery of tanks. The signs shall include the production unit number and emergency notification telephone number of the Galveston fire department. Well and lease designations required by the railroad commission of Texas or any other governmental authority having jurisdiction shall also be displayed.
- (cc) —*Blocking of streets and alleys.* No street or alley shall be blocked or obstructed by any drilling or producing operations unless prior written consent is obtained by the operator from the city council.
- (dd) —*Hurricane precautions.* When any part of the area covered hereby is in the projected path of winds classified by the United States weather bureau 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 operators shall immediately shut down drilling and producing operations; drill pipe shall either be laid down or left in the well bore; and the drilling masts shall be laid down.
- (ee) —*Wells to be abandoned.* All wells within the city limits of Galveston which are not producing oil or gas on a regular basis will, with the exceptions noted below, be plugged.

Exceptions:

(1) —Wells in use as water supply wells;

(2) —Wells in use as salt water or waste disposal wells which are operating under a valid permit from the governmental agency having authority;

- (3) —Wells used as injection or observation wells in secondary recovery; pressure maintenance or other improved recovery operations where such operations are conducted under a valid permit from the railroad commission;
 - (4) —Wells capable of producing oil or gas on a regular basis which are classified as shut-in wells under a valid permit issued by the railroad commission;
 - (5) —Wells on which drilling, recompletion, or well servicing operations are in progress;
 - (6) —Temporarily abandoned wells.
- (ff) —*Abandonment procedures.* Whenever any well is permanently abandoned, it shall be the obligation of the operator to plug such well in accordance with the laws of the state, the rules of the railroad commission of Texas, the procedure outlined in this chapter, and/or any other agency having jurisdiction in connection with the plugging and abandonment of such well. The operator will submit to the petroleum superintendent's office twelve (12) hours in advance of the plugging operation a notice of intent to plug and abandon which will include the abandonment program and request for release of permit.
- (1) —Where enough of the producing or protective casing has been removed from the well to expose the shoe of the surface casing, then a one-hundred-foot cement plug will be placed opposite the shoe of the surface casing to extend at least fifty (50) feet downward and fifty (50) feet upward from the shoe of the surface casing. Sufficient time will be allowed for this cement to harden enough so that it will sustain the weight of drill pipe to this depth. The operator will 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 drill pipe to this depth. In event the top of the plug is not fifty (50) feet upward from the shoe, then a second cement application shall be required and tested as above. After the plug at the shoe has been successfully completed, then a minimum of fifty-foot cement plug will be set at the surface. The surface casing is to be cut off three (3) feet below the ground level and capped with a steel plate welded onto the surface casing below ground level.
 - (2) —Where the protective or producing string of casing to be left in the well extends upward from the shoe of the surface casing to prevent the above method of abandonment, then the following procedure will be used: A packer will be set in the surface casing fifty (50) feet above the top of any other casing within the surface casing and sufficient cement will then be squeezed below the packer to theoretically extend to one hundred (100) feet below the shoe of the surface casing and fill the portion up to the packer with cement. The packer will be left in the well. A surface plug as described above will then be set and abandonment completed in the same manner as described above.
- (gg) —*Exceptions to surface conditions of plugged well.* An exception to the provision relating to the surface condition of a plugged well may be granted by the petroleum superintendent with approval of the city manager pursuant to an application for such exception filed by the operator.
- (hh) —*Operator to bear exception expense.* Any expense incurred by the city due to a request for an exception under this section shall be paid by the operator requesting such exception.

Sec. 25 -3. Sec. 25-7. - Insurance and bonds regarding above ground operations.

- (a) *Insurance requirements.* All operators shall maintain commercial general public liability insurance and insurance coverage on their employees, agents and contractors, in addition to required workmen's compensation insurance, in at least the following amounts:
- (1) *Comprehensive general liability insurance:*
 - a. Public General liability (bodily injury) insurance with limits of not less than one million dollars (\$1,000,000.00) for each occurrence; with a two million dollar (2,000,000.00) general aggregate.
 - b. Public General liability (property damage) medical expense, any one person, insurance with limits of not less than ten thousand dollars \$10,000.00 five hundred thousand dollars (\$500,000.00) in the aggregate.
 - (2) *Excess liability insurance:* An excess liability policy with a limit of liability of at least five million dollars (\$5,000,000.00) coverage in excess of the above required general liability policy.
 - (3) *Certificate of insurance:* As proof of compliance with this section a certificate of insurance shall be provided with the permit application naming the City of Galveston as an additional insured. filed with the petroleum superintendent setting out the insurance coverage required under this section. Such certificate shall state that thirty (30) days' prior written notice of cancellation or material change shall be submitted to the petroleum superintendent by the insurance carrier. Such certificate shall also show the coverage for property damage liability damages arising from blasting or explosion; collapse or structural injury; underground property damage; damage to underground resources and equipment; and hazard and blowout or cratering of any well.
- (b) *Bond requirements.* Each applicant shall file a bond with the permit application petroleum superintendent, executed by the applicant as principal and by a good and sufficient corporate surety company. Said bond shall provide that the principal will remedy any and all damages to the streets, curbs, gutters, water lines, fire hydrants and other public property, occasioned in any manner by the principal, his agents, employees, servants and contractors, and that applicant will reimburse the city for any expenditures made by the city under its the authority granted in section 25-6(o). Such bonds shall inure to the benefit of the city, shall be in the amount of twenty thousand dollars (\$20,000.00) fifty thousand dollars (50,000.00). The city risk manager shall have full authority to determine the adequacy of the bond and the sufficiency of the surety. An applicant shall not be required to post additional bond(s) if there are he has approved bonds on file with the petroleum superintendent, permit office as required by this section, totaling one hundred thousand dollars (\$100,000.00). Each bond shall be for a term of five (5) years and shall be kept in effect by renewal on or before any expiration date unless the applicant is sooner released by the petroleum superintendent permit office.
- (c) *Self-insurance.* The city council may waive the requirements for any bond or policies of insurance, which are required under this chapter, as to any applicant who is financially responsible and capable of meeting obligations for amounts in excess of six million five hundred thousand dollars (\$6,500,000.00) upon applicant's filing with the petroleum superintendent, in lieu of said surety bond and insurance requirements, a bond executed by the operator as principal and a good and sufficient corporate surety company as surety,

guaranteeing to the city that the operator shall be financially responsible for all operations in the same manner and to the same effect as if said operator were fully covered by the insurance requirements set out in subsection (a) and the bond requirements set out in subsection (b) of this section. Said bond shall be approved by the city attorney.

(d) —*Release of bonds.* The petroleum superintendent may release bonds under the following conditions:

(1) —When the permittee ceases all operations covered by this chapter with all wells plugged in accordance with the terms hereof, including the removal of all equipment and machinery.

(2) —If the permittee assigns all of his interest in the production unit covered by bond, such assignor shall be released from such bond, except as to any liability then existing, after the assignee has fully complied with the bond and insurance requirements of this chapter.

(e) c) *Bond surety.* By the term "good and sufficient corporate surety company" is meant a surety company licensed to do business in the state and whose name appears on the current list of accepted sureties on federal bonds published by the U.S. treasury department. Whenever in this chapter a bond is mentioned, such bond, to be acceptable, must have a good and sufficient corporate surety company as surety.

Sec. 25-8. — Voluntary unitization.

(a) —*General statement.* Voluntary unitization is encouraged to permit each owner and lessee of an interest in oil and gas in a tract within a production unit established hereunder to recover the equivalent of his interest in the oil and gas in and under his tract or tracts of land within such production unit.

(b) —*Filing of fair and reasonable unitization and operating agreements with petroleum superintendent.* If all owners and lessees of oil and gas interests in tracts within a proposed production unit have not executed or ratified a voluntary unitization agreement and unit operating agreement, applicant shall file a true copy of the proposed agreements executed by applicant in the office of the petroleum superintendent (city secretary) with the application to drill. Such agreements shall be fair and reasonable. A voluntary unitization and operating agreement shall not be considered fair and reasonable if it provides for any of the following provisions:

(1) — Preferential right of the applicant to purchase mineral interests in the production unit;

(2) — A call on or option to purchase production from the production unit;

(3) — Operating charges which include any part of district or central office expense other than reasonable overhead charges;

(4) — Prohibition against nonoperators questioning the operation of the production unit.

If such unitization agreement and unit operating agreement have not been executed or ratified by all other owners and lessees of interests in oil and gas in tracts within the proposed production unit, applicants shall prepare and submit to the petroleum superintendent, with the application to drill, proposed forms for such agreements and forms for the ratification thereof and after consideration the petroleum superintendent shall file such forms if provision is made therein for allocating production among unitized tracts and interests herein in the proportion that

the surface acreage of each unitized tract bears to the total surface acreage in the production unit (of, if applicable as to oil royalty, in the subarea of the production unit). Such proposed unitization agreement and unit operating agreement shall specify the depths or zones and the minerals (oil, gas or both) to which they apply, and may provide for more than one (1) well and (if oil is discovered) for more than one subarea of the production unit for oil royalty revenue and expense allocation purposes. The boundaries of the subareas shall be designated by applicant and same may overlap.

(c) —*Notice of filing of application.* If the proposed unitization agreement and unit operating agreement have not been executed or ratified by all leasehold and other owners and such owners' interests have not otherwise been effectively unitized, no drilling permit shall be issued hereunder until thirty (30) days after the applicant shall have mailed to the nonunitized owners of minerals or royalty of each tract within the production unit and shall have published in one issue of the official newspaper of the city a notice substantially as follows:

Notice is hereby given that _____ ; whose address is _____ ; as applicant pursuant to the provisions of the oil and gas drilling ordinance of the city, has filed with the petroleum superintendent an application for a permit to drill a well on Drilling Block No. _____ within the city limits of Galveston. A map showing the lands comprising said drilling block, the production unit upon which such well is to be drilled and the exterior boundaries thereof, together with forms of proposed unitization and unit operating agreements, are on file in the office of the petroleum superintendent and available for examination by all persons during regular office hours. All interested parties are hereby notified that they have thirty (30) days after the date of this publication within which to execute and deliver ratifications of the appropriate agreements with respect to their interest in the minerals and production unit shown in such instruments, or under certain circumstances, to participate on a royalty basis with respect to such voluntary unit. Any leasehold or other interest owner who fails to deliver to applicant a properly executed ratification within such time shall be deemed to have elected to repudiate the proposed unit and to not participate in said pooled unit or the production therefrom. Applicant has filed with the petroleum superintendent a detailed statement of the estimated costs and expenses involved in connection with the drilling and completion of said well and the amount in cash allocable to each tract not under lease to or pooled with leases of applicant, which amount the owners of leasehold and other operating rights in each such tract who elect to execute the unit agreement and operating agreement and participate as active operating interest owners must pay as provided in such operating agreement. The ratification forms are available from applicant or from the petroleum superintendent. The proposed unit covers all of the (here insert oil, condensate or gas or oil) with respect to (here insert depths or zones pooled) in and under the production unit referred to above.

Dated this _____ day of _____, 19_____.

(d) —*Result of nonratification of unitization and operating agreements.* Leasehold or other owners who fail timely and effectively to ratify the proposed unit agreement and operating agreement shall be deemed to have repudiated the proposed unit and any right to share in production from the unit well unless same be producing from a tract in which they own an interest. Notwithstanding such repudiation, if all leasehold and other owners having interests in a nonunitized tract in the production unit execute and deliver to applicant a valid oil and

gas lease covering such tract, using a form of lease that is in substantially the same form as filed with and approved by the petroleum superintendent, upon such delivery applicant shall include in the unit, the premises covered by such lease; and from and after the date such lease is effectively included in the unit, and not until such date, the interests covered by such lease shall participate, on a royalty basis, in the production of unitized substances from such unit.

Sec. 25-9. -- General provisions.

- (a) — *Enforcement and supervision.* Enforcement of the terms of this chapter shall be by the city council. It shall be the duty of the petroleum superintendent to enforce the provisions of this chapter and to that end he is hereby vested with police authority.
- (b) — *Public excluded.* It shall be unlawful for any person, unless authorized by the operator, to enter a fenced area around any well or production facility. It shall be unlawful for any person, unless authorized by the operator, to touch any well or production equipment. Notwithstanding any other provision hereof, the petroleum superintendent shall have the right to enter the area of any drill site at any time. In the event any fence surrounding any well or production facility shall be kept locked, upon request of the petroleum superintendent, the key shall be furnished to him for use in access to said premises.
- (c) — *Enforcement.* In addition to any other penalty provided by this section, the city council may direct the city attorney to initiate an action in any court having competent jurisdiction to enjoin any violations of the provisions of this chapter or for an injunction to compel compliance with any provision of this chapter.
- (d) — *Amendment.* Except with respect to the oil and gas master plan adopted through the provisions of subsections (a) through (g) of section 25-4, this chapter or any part thereof may be altered, repealed or amended at any time; and no rights or privileges may ever be acquired hereby which may not be altered, repealed or modified by the city council.
- (e) — *Surface and/or subsurface easements.* When applicant or operator requires surface and/or subsurface easements under a drilling block or production unit, a request shall be made to the council who may take all necessary action to obtain such easement or easements in which the city or any other governmental entity has an interest. Applicant or operator shall pay all costs and expenses so incurred by the council provided the same are first approved by applicant or operator.

Sec. 25-10. -- Option acreage.

Drilling blocks or production units, containing option acreage, as hereinafter defined, may be unitized as provided in section 25-8 except that option acreage may be included or excluded from the unitized area at the option of the owner or owners of a majority of the operating rights in the lease or unitized tract of which the option acreage is a part. An applicant applying for a permit to drill in a drilling block or production unit that contains option acreage shall deliver to all of the owners of operating rights in the leases or unitized tracts, of which the option acreage is a part, a notice as provided in section 25-8(c). If the owner fails to notify the applicant in writing within thirty (30) days from the date of posting said notice to such owner of his election of one of the available options, the owner will be conclusively presumed to have elected to have the option acreage excluded from the drilling block or production unit. Option acreage which is excluded from a drilling block or production unit under the provisions of this section shall be deducted from the total acreage originally designated for such drilling block or production unit

prior to determining whether or not an applicant owns fifty (50) percent of operating rights in a proposed drilling block or production unit. However, any drilling block on which there is located an existing well may, at the option of the operator of said existing well, be treated as a production unit provided said operator owns or controls option acreage and other leasehold rights in excess of fifty (50) percent of the operating rights in said drilling block. Should the operator notify the petroleum superintendent that said drilling block is to be treated as a production unit, then any nonunitized interest in said drilling block may share in production from said unit pursuant only to the terms of section 25-8(d). However, operator may elect to exclude said option acreage from such production unit as provided above.

The term "option acreage" is defined as follows: Where a lease or unitized tract on which an existing well is located extends into a drilling block or production unit which may be unitized by this chapter, the portion of the lease or unitized tract which lies within the boundaries of such production unit is referred to herein as "option acreage."

Secs. 25-11 4– 25-29. Reserved.

ARTICLE II. - GEOPHYSICAL MINERAL EXPLORATION AND TESTING

Sec. 25-30. - Permit—Required.

It shall be unlawful for any person, acting either for himself or as an agent, employee, independent contractor or servant of any other person to use or discharge in any manner, any explosive, including but not limited to, dynamite and nitroglycerin, or conduct any other method of geophysical mineral testing by the use of vibrating machines or otherwise within the city limits without first having obtained a valid permit for such activity from the permit office. petroleum superintendent.

Sec. 25-31. - ~~Same~~ Permit Application Requirements and fee.

An application shall be filed in duplicate (with all exhibits attached) in the permit office of the petroleum superintendent prior to beginning any geophysical mineral testing. Application for seismic work shall cover a single set of lines for a single client or project. Should the applicant determine, after the permit is granted, that additional lines or extensions of existing lines are necessary, these shall be considered a new project and a new application shall be filed, along with all required documents and fees applicable. Such application shall be verified before a notary public and shall be signed by the applicant or some representative of the applicant having legal authority to enter into contracts binding upon the applicant, and the application shall include (as exhibits constituting a part of the same, where appropriate) the following:

- (a) The name, email, and address of the applicant and, if the applicant is a corporation, the name, email, and address of the person upon whom process may be served for such corporation and, if the applicant is a partnership, the names and addresses of the general or managing partners;
- (b) The name, email, address and telephone numbers of a person designated as the agent of the applicant to receive for the applicant all process or citation notices and demands hereunder. If appropriate, more than one telephone number should be furnished;
- (c) Applicants shall file a scaled site plan on a minimum eight and one-half (8½) inch by eleven (11) inch sheet which indicates the following (as applicable):
 - (1) Data describing all processes and activities involved in the proposed use (hole depth, charge type, etc.),

- (2) Boundaries of proposed seismographic survey area within the City of Galveston incorporated limits,
 - (3) The proposed survey lines and shot hole locations,
 - (4) Identify existing land uses along survey line and special restricted areas (e.g., ship channel),
 - (5) The location of significant natural features, such as salt marshes, wetlands, ponds, bayous, etc.;
- (d) An insurance certificate dated not more than ten (10) days prior to filing the application shall be attached. This certificate shall indicate that the applicant has complied with at least the minimum insurance requirements specified in section 25-7 of this chapter.
 - (e) A copy of such bonds as required by this chapter section 25-7 shall be attached. If no bond is required, the applicant shall attach as an exhibit, a statement to the effect that no bond is required with a brief statement pertaining to the reason for the this exception to the bond requirement. The cash bond shall be filed with the petroleum superintendent permit office with the permit application and remain in force and effect on deposit for at least a period of six (6) months after exploration ends and until all claims, if any, are resolved. If such claims cannot be resolved and litigation ensues, then said bond shall be deposited into the registry of the court.
 - (f) Such The application shall be accompanied by a daily permit fee to be assessed by the city council.
 - (g) On receipt of such the application by the permit office petroleum superintendent, the same shall be referred to the city manager or his designee for a report as to compliance of such application with the provisions of this section. Such report and the application shall then be submitted submitted to the city council for review and approval or denial. No permit shall be issued except by the approval of the city council.

Sec. 25-32. - Same—Permit Duration.

Permits are limited to a period of six (6) months from date of issuance, but and may be renewed for not more than two (2) additional ninety (90) day periods at the discretion of the petroleum superintendent and fire marshal.City Council. The city manager and city council shall be informed of all such extensions.

Sec. 25-33. - Same—Permit Terms.

Each permit issued under this article shall require the permittee to do the following:

- (a) Obtain written permission from each property owner to enter his the owner's property;
- (b) Contact each resident or business within two hundred fifty (250) feet of the operation prior to performing the actual work;
- (c) Place newspaper advertisements in the official newspaper of the city of not less than three (3) inches by four (4) inches explaining the work to be performed, location, and telephone number residents may call. The advertisement shall be placed in the newspaper at monthly intervals during the continuation of the project. The petroleum superintendent permit office may request additional publications to assure that the

health, safety and welfare of the general public are being protected. ~~The city manager and city council shall be informed of all such additional requirements;~~

- (d) Employ at least one (1) City of Galveston (off-duty) fireman to accompany the crew while testing on city right-of-way (and provide twenty-four (24) hour notice to the fire marshal);
- (e) ~~Provide notarized evidence that all terms of the permit have been met or will be met in accordance with permit requirements;~~
- (ef) ~~If applicable,~~ obtain approval of city council to use city right-of-ways and enter into a license-to-use agreement with the city. Such agreement shall include all standard requirements applicable to city license-to-use agreements and any additional requirements imposed by city council.

Sec. 25-34. - Explosives.

- (a) Charges in excess of twenty-five (25) pounds shall not be used ~~unless authorized by the Fire Marshal. except pursuant to written authorization from the petroleum superintendent and fire marshal.~~ Requests for the use of such charges shall specify the size of charges to be used, and the depth at which they are to be suspended or buried. ~~Such request shall be addressed to the petroleum superintendent.~~

Sec. 25-36. - Regulation of discharge and transportation of explosives.

No geophysical method of mineral exploration shall be used under this permit ~~without prior written notice to the permit office by the permittee of having first, on~~ the date of such proposed use, ~~notified the petroleum superintendent and fire marshal of the proposed time and the location of the planned use. In the event the petroleum superintendent is not available, notice shall be given to the fire marshal and to the city manager.~~ Additionally:

- (a) No explosives shall be discharged within one thousand (1,000) feet of a fishing boat operating on the lakes, bays, sounds or other inland waters inside the coast line as designated and defined by the federal government under applicable acts of congress, or within the gulfward boundary of the state, county, or city without notice being given to such boat so that it may move from the area.

Sec. 25-39. - Protection to the environment.

- (a) Surveys are to be conducted by seismic personnel to provide maximum feasible protection to the environment except where mutually agreeable mitigating arrangements have been made for specific damages.
- (b) Any damages to property or structures in the marsh or other natural resources during survey work shall be reported immediately ~~to the police dispatch of the petroleum superintendent city.~~
- (c) No explosives shall be discharged in the vicinity of an active bird rookery or nesting area or within the perimeter of a feeding or nesting area of any other species which is considered endangered or threatened, without the prior written approval of the Texas State Fisheries and Wildlife Department, and the U.S. Fish and Wildlife Services. Copies of such approvals shall be attached to the permit application.

- (d) Operations shall not disturb any natural or manmade channel or land-ownership markers. Permission of each land owner and/or lessee, on whose land a survey is planned, is required.
- (e) Survey crews are to remove all right-of-way markers or other markers of any kind, including but not limited to pipes, trash, litter and any other foreign objects, from the site of their operations upon completion of operations. Garbage, litter and sewage is to be stored according to the provisions of state and local laws and regularly disposed of during operations at a state inspected disposal site.

Sec. 25-40. - Permit denial or revocation.

- (a) A permit may be refused if it fails to contain all of the required information or if it is not signed by an authorized individual. A permit may be revoked if it is learned that the information contained in the application for such permit is untrue in any respect or that the application was signed by a person with no authority to sign such application.
- (b) Violation of any of the provisions of this article for the regulation of seismic operations, or the refusal of any operator or its employees to comply fully therewith at any time the exploration is conducted or any attempt to unduly influence the petroleum superintendent, fire marshal, or any other designated agent of the city to abstain from the enforcement of these regulations shall constitute peremptory a cause for the revocation of any permit which may have been issued and may result in the barring of the party chief or permittee personnel involved from future operations within the city.
- (c) Any person found in violation of any provision of this article shall be fined an amount not to exceed one thousand dollars (\$1,000.00). For the purpose of applying and enforcing the penalties contained in this section, each day a violation may occur or continue may be deemed a separate offense and punishable accordingly.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 5. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 6. This Ordinance shall be and become effective on, from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on November 14, 2019 as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this _____ day of _____, 2019.

Secretary for the City Council
of the City of Galveston