

Chapter 42
ENVIRONMENT
ARTICLE V. PIPELINES AND PUMP STATIONS

DIVISION I. GENERALLY

Section 42-301. Purpose

It is hereby declared to be the purpose of this article to:

- (a) Protect the health, safety and general welfare of the public;
- (b) Establish reasonable and uniform limitations, safeguards and regulations for present and future operations on private and public property that will serve as minimum standards for transporting of oil, gas and other substances.
- (c) Establish reasonable and uniform limitations, safeguards and regulations for present and future operations on private and public property that will serve as minimum standards to protect the health, safety and general welfare of the public;
- (d) Minimize the potential impact to private and public property and mineral rights owners;
- (e) Protect the quality of the environment and encourage the orderly production of available mineral resources;

Section 42-302. Applicability

- (a) With the exception of pipelines for public utility operations, all persons shall comply with the provisions of this Article that will engage and are currently engaged in operations for the excavation, construction or operation of any lines, including flowlines and intralease piping, for the conveyance and transporting of oil, natural gas, fuel, water or minerals through the city.
- (b) The permits required by this Ordinance are in addition to and are not in lieu of the Special Use Permits required by Chapter 125, Zoning or any other provision of this Code or by any other governmental agency. If any provision of this Chapter imposes a higher standard than that required by any other City regulation, the provisions of this Chapter shall control. If any provision of any City regulation, not contained in this Chapter, imposes a higher standard, that regulation shall control.
- (c) Neither the provisions of this Chapter, nor any permit issued under this Chapter, shall be interpreted to grant any right or license to the permittee to enter upon, use or occupy in any respect any surface land except by the written contract of the surface owner; nor shall this article limit or prevent the free right of any owner to contract for the amount of damages, rights or privileges with respect to his own land and property.

Section 42-303. Definitions

All words or phrases related to pipelines and pump stations, not specifically defined in this Chapter, shall have the meanings customarily attributable thereto by prudent and reasonable oil and gas industry. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment. “Abandonment” as defined by the Railroad Commission and includes the abandonment of a pipeline and the restoration of any site as required by this Ordinance.

Affiliate. Any individual partnership, association, joint stock company, limited liability company, trust, corporation or other person or entity who owns or controls, or is owned or controlled by, or is under common ownership or control with, the entity in person.

Ambient noise level. The all encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

ANSI. American National Standards Institute or its successor(s).

~~*Building.* Any structure for the support, shelter, or enclosure or partial enclosure of persons, animals, chattels, or movable property of any kind including pools.~~

Cathodic protection. An electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection current is supplied by sacrificial anode materials or by an impressed current system.

City. Shall mean the incorporated City of League City.

Company. The company authorized by an agreement to install and maintain gas pipelines within the right-of-way.

Compressor. Any device used alone or in a series that raises the pressure of any vapor or gas and creates a pressure differential to move or to compress a vapor or a gas.

Compressor stations. Facilities, also referred to as inline booster stations, which increase the pressure on gas during its extraction, transport and storage.

Contact Information. The legal name, address, and phone number.

Daytime. The period from 6:30 a.m. to 7:00 p.m.

Decibel (db). A unit of measurement of noise intensity. The measurements are based on the energy of the sound waves, and the units are logarithmic. The decibels are read from a calibrated

sound level meter utilizing the A-level weighting scale and the slow meter response, as specified by the American National Standards Institute.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Exploration. Geologic or geophysical activities, including seismic surveys, related to the search for oil, gas or other subsurface hydrocarbons.

FEMA. Federal Emergency Management Agency.

FIRM. Flood Insurance Rate Map.

Flowline. A line that carries the product (usually a mixture of oil, gas, water or other impurities) from the wellhead to the first vessel (such as a separator, dehydrator, or heater-treater) for the purpose of separating the liquid from the oil and gas.

Gas. Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

Hospital. State licensed facility providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons. This classification includes facilities for inpatient or outpatient treatment, including drug and alcohol abuse programs as well as training, research, and administrative services for patients and employees.

Incident. An occurrence of an action or situation that could have a negative or detrimental impact.

Nighttime. The period between 7:00 p.m. and 6:30 a.m.

Non-site essential. Equipment or materials such as lumber and casings that are not absolutely necessary to the specific activity under which a permit is issued.

Oil and Gas Compliance Officer. The city staff person designated by the City Manager charged with overseeing pipeline operations.

Oil or Condensate. A substance occurring naturally in the earth and composed mainly of mixtures of chemical compounds of carbon and hydrogen, with or without other nonmetallic elements such as sulfur, oxygen, and nitrogen. The compounds that compose it may be in the gaseous, liquid, or solid state, depending on their nature and on the existent conditions of temperature and pressure.

Operator. The person listed on the appropriate Railroad Commission forms that is, or will be, actually in charge and in control of operations and maintenance related to pipelines or pump stations, including, without limitation, a unit Operator or Operator of Record in instances of multiple partners and general partnership. If the Operator, as herein defined, is not the lessee of any premises affected by the provisions of this Ordinance, then such lessee shall also be deemed to be an Operator. The lessees shall include all working interest owners.

Operator agent. The person designated by the Operator, who is a resident of the State of Texas, upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail.

OSHA. Occupational Safety and Health Administration.

Parks, Private. Tract of land utilized for playgrounds, recreational facilities, community centers, playing fields, courts, gymnasiums, swimming pools, and picnic facilities operated and maintained by a homeowners' association.

Parks, Public. Tract of land, excluding trails, for recreational use owned and operated by a public authority, such as the city or county, for the express use of the general public.

Person. An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

Persons. Every person, firm, co-partnership, association, partnership, corporation or society; and shall include both singular and plural and the masculine shall include the feminine gender.

Pigging stations. Facilities used for the launching or receiving of gauges and cleaning equipment into pipelines to perform operations and inspections.

Pipeline. Any intrastate pipeline or pipe of any size, denomination or characteristic, that is used to transport any and all materials of any and all descriptions and used for any and all purposes, including flowlines and intralease piping. This classification excludes pipelines for public utility operations.

Pipeline, Gathering. Any pipeline, or connected series of pipelines, that transports product after the initial sale. If the gathering pipeline is found in a Class 2, 3 or 4 location, as defined in 49CFR Part 192.5, it would be subject to state/federal pipeline safety regulation. The gathering of gas definition is based upon five criteria listed in Part 192.8, and in the American Petroleum Institute Recommended Practice 80 (API RP 80) under paragraph 2.2 "Definition of Onshore Gathering Line". An operator must use API RP 80 to determine if an onshore pipeline is an onshore gathering line.

Pipeline, Modification. The changing of any physical characteristic of a pipeline, including but not limited to repair, relocation, or accessory item installation.

Pipeline, Transmission. When not specified, includes both hazardous liquid and gas transmission pipelines. Transmission pipelines carry oil, petroleum products, natural gas, natural gas liquids, anhydrous ammonia and carbon dioxide from a producer to a distributor.

Piping. A line that carries any liquid or gas to and between other equipment (such as a separator, dehydrator, and heater-treater).

Protected Use. A dwelling unit; religious assembly; hospital building; public or private school boundary; day care boundary; or public, private or Homeowners' Association park.

Public or Private school. Facilities for educational and/or classroom purposes operated by public or private educational institutions offering a general course of study at primary, middle, or high school levels, including study centers, child care and limited child care centers, vocational and trade programs that are incidental to the operation of such schools.

Pump stations. Facilities utilized for the treatment, regulation and extraction of materials conveyed through pipelines, including but not limited to compressor stations, inline booster stations, pigging stations, and valve stations.

Railroad Commission. The Railroad Commission of Texas or its successor(s).

Religious assembly. Facilities for religious worship and other religious ceremonies with incidental religious education, offices, social services, and community programs but not including private schools.

Right-of-way. Any area of land within the City that is acquired by, dedicated to, or claimed by the City in fee simple, by easement, by prescriptive right or other interest and that is expressly or impliedly accepted or used in fact or by operation of law as a public roadway, sidewalk, alley, utility, drainage, or public access easement or used for the provision of governmental services or functions. The term includes the area on, below, and above the surface of the public right-of-way. The term applies regardless of whether the public right-of-way is paved or unpaved.

Salt water disposal well or injection well. A well used for the purpose of injecting produced water back into the subsurface formation or strata.

Seismic survey. An exploration method in which low frequency sound waves are generated on the surface to find subsurface rock structures that may contain hydrocarbons. Interpretation of the survey record can reveal possible hydrocarbon-bearing formations.

SEMS. Safety and Environmental Management System.

Street. A strip of land, privately or publicly owned, which affords the principal means of access to abutting property.

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

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SHOWING CHANGES SINCE 07-26-11 CITY COUNCIL PUBLIC HEARING #6 DRAFT
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Valve stations. Facilities used to regulate flow, temperature and pressure of various mediums being conveyed through pipelines.

Sections 42-304– 42-310. Reserved.

DIVISION 2. PERMITS

Section 42-311. Permits required.

All person(s) desiring to conduct the associated operations shall make an application to the City's Development Review Committee for the following permits. These permits are in addition to and are not in lieu of any permit which may be required by any other provision of the Code of Ordinances or by any other governmental agency.

- (a) *Pipeline permit* – Any person(s) desiring to install or operate a pipeline.
- (b) *Pipeline abandonment permit* – Any person(s) desiring to abandon a pipeline.
- (c) *Pipeline modification permit* – Any person(s) desiring to modify a pipeline.
- (d) *Pump station permit* – Any person(s) desiring to operate a pump station to facilitate the utilization of a pipeline.

Section 42-312. Review of permit applications.

- (a) An approved Special Use Permit is required before a pipeline permit or pump station permit can be obtained from the City.
- (b) The permits required by this Ordinance are in addition to and are not in lieu of any permit which may be required by the Zoning Ordinance or any other provision of this Code or by any other governmental agency.
- (c) City staff shall review the application and may submit it to a Technical Advisor for review.
- (d) The applicant may appeal the denial of a permit based upon the procedures noted in this Article.

Section 42-313. Issuance of permits.

The City Manager or his designee shall issue applicable pipeline permits, pipeline modification permits, pipeline abandonment permits and pump station permits upon compliance of all regulations applicable to the permit that is being sought.

Section 42-314. Amending permits.

- (a) An Operator shall submit an application to amend a permit for changes that are not materially different from the activities covered by the existing permit, and if the proposed activities are in conformance with the applicable Special Use Permit.

- (b) The decision to deny an amendment to a permit shall be provided to the Operator in writing with an explanation of the basis for the decision. The Operator may appeal based upon the procedures noted in this Article.

Sections 42-315. Expiration of permits.

- (a) A permit shall automatically terminate, unless extended, if the operation or construction is not commenced within one hundred and eighty (180) days from the date of the issuance of the permit.
- (b) A permit shall automatically terminate, unless renewed, within one (1) year from the date of the issuance of the final approval to operate.

Sections 42-316. Extension and renewal of permits.

- (a) If the operation or construction is not commenced within one hundred and eighty (180) days from the date of the issuance of the permit, the permit may be extended for an additional one hundred and eighty (180) days upon request by the Operator and proof that the classification of the requested permit for such location has not changed.
- (b) A permit may be renewed annually if the operations have been in compliance with all City ordinances and state and federal regulations.

Sections 42-317 – 42-320. Reserved.

DIVISION 3. APPLICATIONS

The following regulations apply to all person(s) making applications for pipeline, pipeline modification, pipeline abandonment and pump station permits unless a particular permit is denoted. The City may return any application as incomplete if there is a dispute pending before the Railroad Commission regarding the determination of the Operator.

Section 42-321. Application fee.

Submit a non-refundable application fee as established by the City's fee resolution for the actual costs the City incurs for permit application processing and for the services of a technical expert to review the application, plans and documentation.

Section 42-322. Application form.

Submit a completed application in accordance with the written instructions on the form provided by the City. Deficient applications will be returned to the applicant with a written explanation. Additionally, the City may return any application as deficient if there is a dispute pending before the Railroad Commission regarding the Operator.

Section 42-323. Operator information.

Provide name, address and contact information of the operator and any corporate officers, registered agents, general and limited partners, as well as, a copy of the Articles of Incorporation and any “Doing Business As” filings.

Section 42-324. Contacts sheet.

Submit a listing of project positions of authority with title, name, address, and contact information of, but not limited to, the operator, operator agent, site and representative(s) and their assignees if absent.

Section 42-325. Aerial.

Submit an aerial map photographed within one (1) year prior to application date delineating the subject property boundaries including the area within one thousand (1000) feet of the pump station and pipelines. Denote on the map any new structures that are existing at the time of application that are not seen in the aerial.

Section 42-326. Legal description.

- (a) *Pump station permits* – Submit a property deed with an appraisal district map inclusive of the site and property within one thousand (1000) feet, inclusive of subdivision plat reference, block and lot number, if applicable.
- (b) *Pipeline, pipeline modification, and pipeline abandonment permits* – Submit property deed(s) with an appraisal district map inclusive of the site and property within one thousand (1000) feet of the pipeline centerline, inclusive of subdivision plat reference, block and lot number, if applicable.

Section 42-327. Proof of property interests.

Submit a listing of property interest owners with surface, mineral and/or lease interests by name with contact information and documentation of their respective interests.

Section 42-328. Applicable state permits.

Submit a copy of the application filed with the Railroad Commission along with the approved permit by the Commission for operations within the City, copies of the “Water Board” letter from the Texas Commission on Environmental Quality, and any casing exceptions applied for and/or granted.

Section 42-329. Site plans and construction documents.

- (a) *Pump station permits* – Submit engineered construction drawings of the site showing, but not limited to, major components, improvements and equipment; compressors;

separators; storage sheds; fire hydrants; water and power supply; impacted vegetation, creeks and other topographic features; easements; and adjoining roadways, property, parks, buildings, and structures.

(b) Submit a hazardous materials inventory statement including MSDS sheets on all products being used and at which operation phases they are being utilized.

(c) *Pipeline and pipeline modification permits*

(1) Submit scaled plan and profile drawings of the pipeline route through the City inclusive of, but not limited to, horizontal and vertical dimensional representation, nominal diameter of pipe and materials of construction.

(2) Submit documentation regarding the kind (such as saltwater disposal lines, flowlines, intralease piping, gathering, or transmission) and character of the pipeline including construction material, radiography requirements, cathodic protection, maximum pressure level, a list of the materials that will be transported through the pipeline, and where the materials will be transported.

(3) Submit documentation regarding the maximum allowable operating pressure along with the specified minimum yield strength (SMYS), its pressure class and design calculations in accordance with American Petroleum Institute standards.

(4) Submit engineered construction drawings for all pipelines. The drawings shall include the surveyed alignment for the pipelines and the limits of any easements. The drawings shall be sealed by a professional engineer licensed to practice in the State of Texas.

Section 42-330. Pipeline abandonment plan.

Pipeline abandonment permit – Submit the following:

(a) Approval to abandon the pipeline from the appropriate state and federal entities.

(b) Details on how the pipeline will be removed and how the property will be graded, leveled and restored to the same surface condition, as nearly as practicable, as existed when operations for the pipeline were first commenced.

Section 42-331. Landscaping and screening plan.

Pump station permits – Submit a landscaping and screening plan showing the plantings and screening that will be installed on the site in accordance with the Special Use Permit and the regulations of this article.

Section 42-332. Lighting plan.

Pump station permits – Submit lighting plan demonstrating how lighting will be provided in conformance with the Special Use Permit and City ordinance. The plan shall reflect the lighting for the entire site, including the grounds, equipment and any apparatus or structure including the type of light to be used, location, height and degree of illumination up to 1,000 feet as demonstrated by a photometric study.

Section 42-333. Environmental Assessment.

Submit Phase I and Phase II Environmental Assessments in accordance with Texas Commission on Environmental Quality and Environmental Protection Agency standards.

Section 42-334. Environmental management – noise.

Pump station permits – To establish noise levels different than what is required by this Chapter, submit a pre-operation ambient noise level report with twenty-four (24) hour measurements in one (1) hour increments for seven (7) consecutive days in a week without a holiday. The plan shall document how mitigation measures will be utilized so that the noise level does not exceed permitted decibel levels in accordance with the Special Use Permit and the regulations of this article. The plan shall include details on how the equipment will be utilized in the completion and transportation, in order to meet the permitted noise levels. The plan shall take into consideration: the location, type, nature, and proximity of adjacent development; seasonal and prevailing weather patterns; vegetative cover on or adjacent to the site; and topography.

Section 42-335. Environmental management – air emissions.

- a) *Pump station permits* – Submit documentation demonstrating how the surrounding environment will be protected, monitored, and managed against adverse noxious odor impacts and emissions of regulated air pollutants per the Clean Air Act as administered by Texas Commission on Environmental Quality.
- b) *Pipeline and pipeline modification permits* – Submit documentation demonstrating how the surrounding environment will be protected, monitored, and managed against adverse noxious odor impacts and emissions of regulated air pollutants during the installation or operation process per the Clean Air Act as administered by Texas Commission on Environmental Quality.

Section 42-336. Environmental management – spill prevention, control and countermeasure plan.

Submit a spill prevention, control and countermeasure plan utilizing requirements established by the Environmental Protection Agency, Texas Commission on Environmental Quality, Department of Transportation, and the Texas Railroad Commission (or their successor agencies).

Section 42-337. Environmental management – hazard mitigation plan.

Submit hazard mitigation plan demonstrating:

- (a) *Illicit discharges* – How the surrounding environment will be protected, monitored, and managed against adverse impacts during an illicit discharge of oil, gas, or other hazardous substance used on site in accordance with Chapter 43 of the Code of Ordinances entitled “Clean Water”.
- (b) *Inclement weather and civil emergencies* – How the surrounding environment will be protected, monitored, and managed against adverse impacts during civil emergencies such as a bad weather event in accordance with Chapter 34 of the Code of Ordinances entitled “Civil Emergencies”.

Section 42-338. Environmental management – risk management assessment.

Submit a risk management assessment to identify, assess, and prioritize risks including coordination and economical application of resources to minimize, monitor, and control the probability and/or impact of unfortunate events.

Section 42-339. Environmental management – storm water pollution prevention plan.

Submit a storm water pollution prevention plan adhering to Environmental Protection Agency and Texas Commission on Environmental Quality standards for the testing of storm water samples and performing best management practices.

Section 42-340. Emergency management – emergency action response plan.

Submit an emergency action response plan in accordance with Chapter 46 of the Code of Ordinances entitled “Fire Protection” incorporating:

- (a) Written procedures to minimize any hazard resulting from operations utilizing standards established by the Railroad Commission, Texas Commission on Environmental Quality, Department of Transportation, and the Environmental Protection Agency.
- (b) Drive-to-maps from public rights-of-way to site.
- (c) Evacuation routes for surrounding area that utilize the same roadways.

Section 42-341. Safety management.

Pipeline, pipeline modification, and pump station permits – Submit a Process Safety Management plan that is in conformance with Section 29 CFR 1910.110 of OSHA standards.

Section 42-342. Access management plan.

Provide access management plan incorporating:

- (a) Delineation of the access route from the city limits to the pump station and all above ground equipment associated with pipelines.
- (b) A table indicating roadway name, trail, sidewalk, length, and construction type.
- (c) Documentation as to how the roadways, trails and sidewalks will be protected, monitored, and managed against adverse impacts during access in accordance with Chapter 98 of the Code of Ordinances entitled “Streets, Sidewalks and Other Public Places”.

Section 42-343. Surety.

Submit documentation in accordance with the regulations in this article.

Section 42-344. Amended permit applications.

Submit the following items for amended permit applications:

- (a) Application form completed in accordance with the written instructions provided by the City.
- (b) A non-refundable application fee to the City for the actual costs it incurs for the services of a technical expert to review the proposed amendment.
- (c) A description of the proposed amendments including any changes to the existing permit.
- (d) Such additional information as is reasonably required by the City to demonstrate compliance with the applicable permit and to prevent imminent destruction of property or injury to persons.
- (e) A non-refundable fee to the City for the actual cost it incurs for the services to implement the proposed amendment.

Section 42-345. Expiration of application.

Application shall expire forty-five (45) days from submittal to the City if the operator or applicant does not show progress towards meeting any required regulations in order to obtain the permit.

Sections 42-346 – 42-350. Reserved.

DIVISION 4. FEES

The following regulations apply to all pipeline, pipeline modification, pipeline abandonment and pump station permits unless a particular permit is denoted. The fees shall be set by resolution of the City Council and amended from time to time.

Section 42.351. Permit fee.

A permit fee as established by the City's fee resolution shall be rendered prior to issuance and each renewal of the permit. The permit fee shall be for the enforcement, monitoring and inspections associated with the operations described in this article to ensure compliance. The amount shall be calculated by applying a daily cost for service times the estimated time to complete; and, if the time of completion exceeds the initial estimated duration, additional amounts will be billed monthly.

Section 42.352. Access maintenance and road damage fees.

- (a) *Access maintenance* – An access maintenance fee as determined by the Director of Public Works to cover the anticipated annual costs for access maintenance and cleaning of city rights-of-way. The access maintenance fee shall be rendered prior to the commencement of any site activity under the Permit. The fee shall be paid on or before the issuance and renewal of the permit.
- (b) *Road damage* – A road damage fee as determined by the Director of Public Works for city rights-of-way shall be calculated based on the access lane miles for the appropriate road type, the assessment per lane mile, and the number of lane miles included in each permit. Replacement costs for asphalt and/or concrete road segments shall be determined from current cost per square yard of road surface material, including installation and labor.

Section 42.353 – 42.360 Reserved.

DIVISION 5: SPECIAL PROVISIONS

The following regulations apply to all pipeline, pipeline modification, pipeline abandonment and pump station permits unless a particular permit is denoted.

Section 42-361. Final inspections.

- (a) Any operations associated with pipelines and pump stations shall not commence until the City has performed the appropriate inspections and issued final approval for operations. Any significant nonconformance shall be addressed and re-inspected before operations may commence.
- (b) The Operator shall notify the Oil and Gas Compliance Officer of all inspection requests in accordance with established policy.

- (c) *Pipeline abandonment permits* – After the pipeline has been abandoned, the equipment has been removed and the site fully restored, then the Operator shall notify the Oil and Gas Compliance Officer for final inspection.

Section 42-362. Required compliance inspections.

Routine compliance inspections for pipeline and pump station operations – The City shall at minimum perform quarterly inspections of any operations associated with pipelines and pump stations to ensure compliance with all permits and City ordinances. Copies of all approved environmental management plans shall be kept on-site and ready for inspection.

Section 42-363. Periodic reports.

- (a) The Operator Representative shall immediately notify the Oil and Gas Compliance Officer of any changes to the conditions upon which the permit was issued including, but not limited to, contact information, site layout, spill prevention, control and countermeasure plans, safety management plans and environment management plans within one business day.
- (b) *Pump station permits* – Beginning on the first anniversary date of the permit, the Operator Representative shall submit an annual operational status report addressing periodic noise level monitoring, air quality, water samplings, the status of the operations, and current certifications for all pressure control and hoisting equipment. The report shall include the Pump Station Name, API Number, Lease Name, City Case Number, Commission Permit Number, Commission Lease and ID Number.
- (c) *Pipeline and pipeline modification permits* – Beginning on the first anniversary date of each pipeline after it is permitted by the City, the Operator shall submit an annual operational status report for every pipeline permitted to the Operator within the City. The report shall include the Pipeline Name, API Number, Lease Name, City Case Number, Commission Permit Number, Commission Lease ID Number and Current Status whether active or abandoned.

Section 42-346. Incident reports.

- (a) The Operator shall provide the Oil and Gas Compliance Officer a copy of any incident reports or written complaints received from and operator's response submitted to the Railroad Commission, Texas Commission on Environmental Quality, Texas General Land Office, Environmental Protection Agency, Occupational Safety and Health Administration, or other applicable governmental agency within 30 days after the Operator has notice of the existence of such reports or complaints.
- (b) The Operator shall immediately report the following incidents to the Oil and Gas Compliance Officer as required by Chapter 43 of the Code of Ordinances, the Environmental Protection Agency, the Texas Commission on Environmental Quality and the Texas General Land Office:

- (1) Any incident resulting in product loss for a hydrocarbon storage facility or pipeline, fire, explosion;
 - (2) Any incident resulting in an injury recordable by the Occupational Safety and Health Administration, death or property damage;
 - (3) The release of oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances, any refuse including wastewater or brine from any oil or gas operation, unauthorized gases or the contents of any container used in connection with any oil or gas operation; or
 - (4) Any other significant incidents as defined by the Railroad Commission, Environmental Protection Agency and the Texas Commission on Environmental Quality.
- (c) A preliminary written report with a summary of the incident shall also be submitted to the City staff person noted in the Spill Prevention, Control and Countermeasure Plan by the close of the first business day of the City following the incident.
- (d) A signed final report shall be submitted to the City staff person noted in the Spill Prevention, Control and Countermeasure Plan within thirty (30) days following the incident containing:
- (1) Description of the incident, including the date, time, location and cause.
 - (2) Duration of the incident, including when it began, when it terminated to the degree that it no longer constituted a hazard to the health, safety, and well being of persons or property, regardless of the distance or separation of the place of the incident.
 - (3) Description of how the incident was brought under control or remedied.
 - (4) Description of the type of investigation or inquiry that was made concerning the incident, the findings thereof, and the action taken as a result of the findings to prevent a recurrence of the incident.

Section 42-365. Relocation of pipelines.

- (a) Any person who shall receive a permit under this division shall, as a condition of such permit, be required to relocate any pipeline installed under such permit at his sole expense, in the event such relocation is made necessary by the construction, reconstruction or repair of any public street, water or sewer line, drainage ditch or structure or any other public improvement that might cross such pipeline.

- (b) The Company shall protect, support, disconnect, alter or remove any portion of its pipeline from rights-of-way due to: street or other public excavation, construction, repair or grading; the installation of sewers, drains, water pipes or municipal facilities of any kind; the vacation, construction or relocation of streets or any type of structure or improvement; any public work; or any other type of improvement necessary in the City's sole discretion for the public health, safety or welfare. The Company shall have forty-five (45) days to comply with the City's request upon receipt of written notice. If the Company reasonably requires more than forty-five (45) days to comply with the City's request, then it shall notify the City in writing with ten (10) days of receiving the notice and the City will work in good faith with the Company to negotiate a reasonable time frame.

Section 42-366. Revocation or suspension of permit.

- (a) If at any time any applicable permit issued by a state and federal entity expires or is revoked, then the permit issued by the City shall be suspended until the state or federally issued permit is reinstated.
- (b) Operators shall comply at all times with all applicable federal, state and City laws, regulations and rules. If an Operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a permit, the Operator is subject to immediate citation, injunction, abatement or any other remedy permitted by law and this article. When possible under the circumstance, the City shall give written notice to the Operator specifying the nature of the failure and giving the Operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community.
- (c) If the Operator fails to comply within ten (10) days after notice, or fails to comply immediately if there is an imminent health and safety issue, the City may suspend the permit and pursue revocation of the permit by the Zoning Board of Adjustments.
- (d) The Operator may file an appeal in writing directed to the Zoning Board of Adjustments within thirty (30) days of the date of the decision of the City in writing to suspend the permit.
- (e) No person shall carry on any operations performed under the terms of any permit issued under this Article during any period of suspension or revocation or pending a review of the decision or order of the City. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the permit was ordered for the safety of persons or as required by the Railroad Commission.

Sections 42-367. – 42-370. Reserved.

DIVISION 6. REGULATIONS

The following regulations apply to all pipeline, pipeline modification and pump station permits unless a particular permit is denoted.

Section 42-371. Compliance with applicable regulations.

All operations related to pipeline, pipeline modification and pump station permits within the city shall comply with all applicable provisions of the regulations in this article, the American Petroleum Institute, the Occupational Safety and Health Administration, and federal and state codes.

Section 42-372. Water supply source.

The source of water supply for all pump station operations shall be through the municipal water system. The connection size shall be based upon the availability of the water supply. The alternative water supply as approved with the permit shall be utilized in the following conditions:

- (a) Water demand for the city is 90 percent of the available contracted surface water sources per day for a seven-day average; or
- (b) City wells are producing at 40 percent of their capacity to augment an inadequate supply of contracted surface water over a seven-day average.

Section 42-373. Location of electric lines.

All electric lines to site development and/or facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision. Power lines shall be placed underground.

Section 42-374. Distancing and setbacks.

The distancing and setback requirements noted in this subsection shall apply to all new permits for pipelines, pipeline modification and pump stations, and shall be consistent with the approved Special Use Permit. These requirements shall not apply to any renewal permits for existing operations that have state and federal permits in good standing.

- (a) The proposed pump station shall not be within fifty (50) feet of any alley, street, road, highway, right-of-way or future right-of-way as shown on the Thoroughfare Plan of the City or equivalent thereof. (The Department of Public Works may permit temporary access in with consideration of the nature of the request and the number of hours and/or days that any street or alley may be blocked, encumbered or closed.)
- (b) ~~The proposed pump station shall not be within two hundred (200) feet to any fresh water well. Setbacks to municipal, public or private fresh water wells that serve multiple residential or commercial properties shall be determined by the City, but shall be no less than 200 feet.~~

~~The measurement shall be in a direct line from the closest well bore to the fresh water well bore. The reduction of the distance requirement for fresh water wells is subject to the Railroad Commission regulations and any other state or federal requirements. The proposed pump station shall not be within six hundred (600) feet to any fresh water well. The measurement shall be in a direct line from the pump station to the fresh water well bore. The setback may be reduced to no less than two hundred (200) feet from the fresh water well if all surface property owners within a radius of two hundred (200) to six hundred (600) feet from the fresh water well signed a notarized affidavit consenting to the encroachment when the Special Use Permit was granted. The reduction of the distance requirement for fresh water wells is subject to the regulations of the Texas Commission on Environmental Quality, Railroad Commission and any other state or federal requirements.~~

(c) ~~The proposed pump station shall not be within six hundred (600) feet of any off-site building or structure for which a building permit was issued on or before the date the Special Use Permit Application was accepted by the City. The measurement shall be in a direct line from the closest well bore to the nearest portion of the building or structure. The setback may be reduced from the building or structure if all current surface property owners within the affected radius signed a notarized affidavit consenting to the encroachment when the Special Use Permit was granted. The reduction of the distance requirement is subject to the regulations of the Railroad Commission and any other state or federal requirements.~~

(d) ~~The proposed pump station site shall not be within six hundred (600) feet of a public or private park or within six hundred (600) feet of a dwelling unit, religious assembly building, hospital building, public or private school boundary, or day care boundary for which a building permit ~~has been~~ was issued on or before the date ~~of~~ the Special Use Permit application ~~was accepted by the City~~. The distance shall be calculated from the proposed pump station site, in a straight line, without regard to intervening structures or objects, to the primary structure of the protected use or boundaries of a park, school or day care, whichever is applicable. The Planning and Zoning Commission may recommend and the City Council may approve a reduction in the setback distance ~~if: (The applicant must demonstrate show that the reduction is necessary because of the type of pump station and its operations in order to gain access to minerals owned by or leased to the applicant. Upon showing evidence that there are no other viable alternatives that would impact the adjacent property owners to a lesser degree while still providing access to the minerals, a reduction in the setback distance may be approved.~~ If a reduction is approved, then additional requirements may be imposed for nuisance and aesthetic control.~~

Section 42-375. Landscaping.

Pump station permits – Landscaping and buffer yards shall be installed in accordance with City ordinance, the approved landscape plan and Special Use Permit prior to issuance of the permit. At minimum, a 50-foot buffer yard around the perimeter of the operation site containing the following plantings or an alternative approved by the City Arborist that provides equivalent screening and aesthetic quality shall be required:

(a) Southern Wax Myrtle Shrub in minimum 5-gallon containers spaced 30 inches apart.

- (b) Chinese Elm trees with a minimum 3-inch caliper diameter and a minimum height of 12 feet, spaced 20 feet apart.
- (c) Little Gem Magnolia trees with a minimum 3-inch caliper diameter and a minimum height of 12 feet, spaced 15 feet apart.

Section 42-376. Screening and fences

Screening and fences shall be installed on the site in accordance with approved plans and the Special Use Permit prior to issuance of the permit.

- (a) The perimeter of the location shall be secured with a commercial quality fence with a minimum height of six (6) feet, regardless of on-site supervision.
- (b) Any secured entrance gate shall contain a Knox-Box keybox or pad lock or equivalent.
- (c) *Pump station permits* – At minimum, the site shall be enclosed by an eight (8) foot tall, opaque fence, unless otherwise restricted by Homeland Security.
- (d) All fences shall be equipped with at least one (1) gate. The gate shall meet the following specifications:
 - (1) All gates shall be equipped with a 911 override control switch. Gate specifications must be submitted to the Fire Marshal's Office and approved prior to installation.
 - (2) Each gate shall be not less than twelve (12) feet wide and be composed of two (2) gates, each of which is not less than six (6) feet wide, or one (1) sliding gate not less than twelve (12) feet wide. If two (2) gates are used, gates shall latch and lock in the center of the span.
 - (3) The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site.
 - (4) Operator must provide the Fire Department with a Knox Padlock or Knox Box entry system or equivalent on the gate to access the site in case of an emergency.

Section 42-377. Lighting.

Lighting shall be provided on the site in accordance with the Special Use Permit and City ordinance.

Section 42-378. Noise.

- (a) The usage of a muffler cutout, bypass or straight exhaust on any motor machinery is prohibited.
- (b) *Permitted sound levels*
 - (1) *Pump station operations within 600 feet of protected uses excluding parks* – When measured at the required setbacks, the decibel levels shall not exceed fifty-five (55) decibels during daytime hours and forty-five (45) decibels during nighttime hours. If utilizing a noise study to establish an ambient noise level, then the decibel level shall not be five (5) decibels above the established ambient noise level during the daytime hours and three (3) decibels above the established ambient noise level during the nighttime hours.
 - (2) *Pump station operations adjoining all other uses* – When measured at the required setbacks, the decibel levels shall not exceed sixty-seven (67) decibels during daytime hours and sixty (60) decibels during nighttime hours. If utilizing a noise study to establish an ambient noise level, then the decibel level shall not be five (5) decibels above the established ambient noise level during the daytime hours and three (3) decibels above the established ambient noise level during the nighttime hours.
 - (3) The exterior noise level generated by the pump stations or other related operations located within six hundred (600) feet of a protected use shall be continuously monitored to ensure compliance. The cost of such monitoring shall be borne by the Operator.
- (c) Acoustical blankets, sound walls, mufflers or other alternative methods may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and subject to approval by the City.
- (d) The sound level meter used in conducting noise evaluations shall meet the American National Standards Institute's standard for sound meters.

Section 42-379. Illicit discharges.

- (a) No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including wastewater or brine from any oil or gas operation or the contents of any container used in connection with any oil or gas operation in, into, or upon any public rights-of-way, alleys, streets, lots, storm drain, ditch or sewer, sanitary drain or any body of water or any private or public property in the City.
- (b) No person shall allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame.

- (c) Clean-up operations of hazardous substances shall be in compliance with Chapter 54 of the Code of Ordinances.
- (d) After any spill, leak or malfunction, the Operator shall perform environmental remediation to the satisfaction of the Fire Marshal, Emergency Management Department, and the Technical Advisor all waste materials from any public or private property affected by such spill, leak or malfunction. Remediation must begin immediately. If the Operator fails to begin site remediation within twenty-four (24) hours, the City may contract for or otherwise employ any remediation experts by contract or otherwise at the sole expense of the Operator. The Operator shall submit an incident report to the City detailing disposal methods, documentation on contamination of soil and corrective actions to prevent reoccurrence.
- (e) Operator expressly consents by applying for a permit to allow a draw down of any bond or letter of credit to cover any clean up expenses. In the event that the bond or letter of credit is exhausted, Operator agrees to immediately replenish the amount. City shall have the right to contact the Railroad Commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.

Section 42-380. Water well sampling.

Water samples may be required at the discretion of the City and at the expense of the Operator utilizing proper protocol from an approved laboratory by the Environmental Protection Agency and the Texas Commission on Environmental Quality. The samples shall include the area of concern on the site as well as the area down grade from the site. Monitoring shall consist of elements, chemicals and bacteria including calcium, magnesium, sodium, potassium, sulfate, pH, specific conductance, alkalinity (CaCO₃), total coliform/e-coli, total suspended solids, total dissolved solids, iron manganese, acidity, methane/ethane, oil and grease (HEM), barium, total petroleum hydrocarbons (TX 1005), BTEX, chlorides, strontium, and turbidity.

Section 42-381. Soil sampling.

Soil sampling may be required at the discretion of the City. Soil contamination assessments shall be conducted at the expense of the Operator and shall utilize an approved laboratory testing for any increase about the Texas-specific median background concentrations for metals or specific contaminants that might have been present on the site. A minimum of five (5) samples shall be taken and shall include pit or area of concern as well as the area down grade from the site.

Section 42-382. Fire prevention.

- (a) *Explosives.* Use of explosive charges within the City limits shall require approval by the Fire Marshal as required in Chapter 46, Fire Protection and Prevention of the Code of Ordinances.

- (b) *Fire notice.* In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the Operator shall immediately report such condition to the contact specified in the Spill Prevention, Control and Countermeasure Plan. A written report with a summary of the incident shall also be submitted by the close of the first business day of the City following the incident.
- (c) *Fire prevention; sources of ignition.* Firefighting apparatus and supplies as approved by the Fire Department and required by any applicable federal, state, or local law shall be provided by the Operator, at the Operator's cost, and shall be maintained on the site at all times during operations. The Operator shall be responsible for the maintenance and upkeep of such equipment. All equipment shall be equipped with an automated valve that closes or shuts down the equipment in the event of an abnormal change in operating pressure.
- (d) *Equipment and vehicles.* No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary on the site. The Fire Marshal shall be the entity that determines whether equipment on the site shall constitute a fire hazard.

Section 42-383. Pipeline installation.

- (a) Odorization such as Mercaptan shall be added to non-odorous liquids and gases at the production site as a safety precaution during the entire time of use.
- (b) The pipelines shall not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such rights-of way.
- (c) All pipelines under city right-of-way shall be cased.
- (d) Pipeline facilities shall be buried at a minimum depth of four (4) feet except underneath public roads or as allowed by other applicable laws. Underneath public roads, pipeline facilities shall be buried a minimum depth of seven (7) feet below the lowest point in such road pavement. When pipeline facilities cannot be bored, during backfill of the pipeline excavation, "Buried Pipeline" warning tape shall be buried one (1) foot above the pipeline to warn future excavators of the presence of the pipeline. Any deviation to the minimum depth requirement must be approved in writing by the City.
- (e) The pipeline shall be marked, in a manner that is reasonably acceptable to the Inspection Services Provider, to show conspicuously the Operator's name, a toll-free telephone number of Operator for assistance, and the appropriate Texas One Call System telephone number. Other provisions notwithstanding, an identifying sign shall be placed at each point where a flow line or gathering line crosses a public street or road.
- (f) The number and location of isolation valves on the Pipeline shall be approved by the City and clearly indicated on the Construction Plans.

Section 42-384. Access management.

- (a) It shall be unlawful for any person(s) to block, encumber, obstruct or close any street, alley or other public way within the city, except by special permit by order of the Department of Public Works Director of designee.
- (b) *Pump station permits* – Prior to the commencement of operations, all roads used for access to the site shall be at least twenty-four (24) feet wide, have an overhead clearance of fourteen (14) feet and shall be surfaced with concrete, asphalt, gravel or caliche. In particular cases, these requirements governing surfacing of private roads may be altered at the discretion of the City after consideration of all circumstances including, but not limited to: distances from streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind.
- (c) The Operator shall use watering, wetting or other methods or materials to control dust on the site.
- (d) The Department of Public Works may restrict the hours of operation of vehicles based upon the location of the property and adjoining land uses.
- (e) Emergency access and turnabouts shall be included as deemed appropriate by the Fire Marshal. The access route should be of appropriate width to accommodate emergency response equipment. Street turnabouts should be of adequate turning radius to facilitate forward or reverse hose lays and/or exit of any emergency response equipment.

Section 42-385. Maintenance of sites.

- (a) The site shall be kept in a clean and sanitary conditions, free from rubbish and combustible materials of every character, to the satisfaction of the health officer and fire marshal, at all times during operations.
- (b) All equipment shall be maintained by the Operator at all times, including pipelines, pumping units, and buildings or structures. The City shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance.

Section 42-386. Waste disposal.

- (a) Any material classified as hazardous waste according to the EPA shall be disposed in accordance with EPA standards.

- (b) Unless otherwise directed by the Railroad Commission, waste materials shall be removed from the site and transported to an off-site disposal facility not less often than every thirty (30) days.
- (c) All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the State, this Ordinance and any other applicable ordinance of the City.

Section 42-387. Hours of operation.

- (a) Site preparation, truck deliveries and pick-up of equipment and materials, and other related work conducted on the pipeline or pump station shall be limited to daytime hours. The restriction on work hours shall not apply in cases of fires, explosions and any other emergencies.
- (b) The Operator shall conduct on-site meetings to inform all personnel of nighttime operation noise control requirements.

Section 42-388. Abandonment of pipelines.

After the pipeline is no longer utilized for the purposes as described in the permit, the pipeline shall be removed unless otherwise approved by City Council. The property shall be graded, leveled and restored to the same surface condition, as nearly as practicable, as existed when operations for the pipeline were first commenced.

Section 42-389. Signage.

A sign shall be immediately and prominently displayed at the gate on the fencing erected pursuant to this Article. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the Railroad Commission, shall have a surface area of not less than two (2) square feet nor more than four (4) square feet and shall be lettered with the following:

- (a) Pipeline or pump station name and number;
- (b) Name of Operator;
- (c) The emergency 911 number; and
- (d) Telephone numbers of two (2) persons responsible for the pipeline or pump station who may be contacted in case of emergency.

Section 42-390. Storage of equipment and chemicals.

All chemicals and/or hazardous materials shall be stored in such a manner as to prevent, contain, and facilitate rapid remediation and cleanup of any accidental spill, leak, or discharge of hazardous materials. The Operator shall have all material safety data sheets (MSDS) for all

hazardous materials on-site. All applicable federal and state regulatory requirements for the proper labeling of containers shall be followed. Appropriate pollution prevention actions shall be required and include, but are not limited to, chemicals and materials raised from the ground (i.e. wooden pallets or containment pallets), installation and maintenance of secondary containment systems, bulk storage, and protection from storm water and weather elements.

Section 42-391 – 41-400. Reserved.

DIVISION 7. LIABILITY, SURETY AND INSURANCE

The following regulations apply to all pipeline, pipeline modification, pipeline abandonment and pump station permits unless a particular permit is denoted.

Section 42-401. Liability.

- (a) The Company shall be liable and responsible for any and all damages, losses, liabilities (joint and several), payments, obligations, penalties, claims, litigation, demands, defenses, judgments, lawsuits, proceedings, costs, disbursements, or expenses (including without limitation, fees, disbursements, and reasonable expenses of attorneys, accountants, professional advisors and expert witnesses and costs of investigation and preparation) of any kind or nature whatsoever, which may arise out of or be in any way connected with:
 - (1) The construction, installation, operation, maintenance, or condition of any related facilities or appurtenances;
 - (2) Any claim or lien arising out of work, labor, materials, or supplies provided or supplied to Company, its contractors or subcontractors with respect to any related facilities or appurtenances; or
 - (3) The Company's failure to comply with any applicable federal, state, or local ordinance, except to the extent directly caused by gross negligence or intentional misconduct of the City.
- (b) The Company, at its sole cost and expense, shall indemnify and hold harmless the City, its officers, boards, commissions, agents, employees, and volunteers (also referred to as indemnitees) from and against any and all damages which may arise out of or be in any way connected with:
 - (1) The Company's construction, installation, operation, maintenance, or condition of any related facilities or appurtenances;
 - (2) Any claim or lien arising out of work, labor, materials, or supplies provided or supplied to Company, its contractors or subcontractors;

- (3) The Company's failure to comply with any applicable federal, state, or local ordinance; or
 - (4) The negligent act or omission(s) of the City, its officers, and employees.
- (c) The Company hereby undertakes and assumes, for and on its behalf, its officers, agents, contractors, subcontractors, agents, and employees, all risk of dangerous conditions, if any, on or about any city-owned or city-controlled property, including, but not limited to, rights-of-way.
- (d) If an action is brought against an indemnitee as described in this subsection by reason of any matter for which the indemnitee is indemnified hereunder, the City shall give the Company prompt written notice of the making of any claim or commencement of any such action, lawsuit, or other proceeding. The Company, at its sole cost and expense, shall resist and defend the same with reasonable participation by the City and with legal counsel selected by the Company and specifically approved by the City, at the City's expense. In such an event, the Company shall not admit liability in any matter or behalf of any Indemnitee without the advance written consent of the City.

Section 42-402. Bond and irrevocable letter of credit.

- (a) *Pump station permits – Bond.* A bond, in the amount established by fee resolution, shall be executed by a reliable bonding or insurance institution authorized to do business in Texas and acceptable to the City. The bond shall become effective on or before the date the permit is issued and shall remain in force and effect for at least a period of six (6) months after the expiration of the permit term or until the pump station is abandoned and the site is restored, whichever occurs last. The Operator shall be listed as principal and the instrument shall run to the City, as obligee, and shall be conditioned that the Operator will comply and perform in accordance with the terms and regulations of this Ordinance and other applicable City ordinances. The original bond shall be submitted to the City.
- (b) *Pipeline and pipeline modification permits – Installation bond.* An installation bond in the amount as established by the City fee resolution shall be rendered prior to the granting of the permit. The Operator shall provide to the City a good and sufficient license and permit bond to provide surety that the applicant shall faithfully perform the work and all the conditions set out in his permit and that all work within the city shall be in strict accordance with the terms and conditions of this article. Any violation of this division or the conditions set out in the permit shall cause the bond to be forfeited in favor of the City.
- (c) *Letter of credit.* A letter of credit in the amount as established by the City fee resolution shall be issued by a reliable bank authorized to do business in Texas and shall become effective on or before the date the permit. The letter of credit shall remain in force and effect for at least a period of six (6) months after the expiration of the permit. If the letter of credit is for a time period less than the life of the pipeline or pump station as required by this Ordinance, the Operator must agree to either renew the letter of credit or replace

the Letter of Credit with a bond in the amount required by this Ordinance, on or before forty-five (45) days prior to the expiration date of the letter of credit. If the Operator fails to deliver to the City either the renewal letter of credit or replacement bond in the appropriate amount on or before forty-five (45) days prior to the expiration date of the letter of credit, the City may draw the entire face amount of the letter of credit to be held by the City as security for the Operator's performance of its obligations under this Ordinance.

- (d) The City shall be authorized to draw upon such letter of credit or bond to recover any fines, penalties, defaults or violations assessed under this Chapter. Also, the letter of credit may be used to draw down City road damage expense to the extent road damage cost exceeds the road damage fee paid with the permit application. Evidence of the execution of a letter of credit shall be submitted to the City by submitting an original signed letter of credit from the banking institution, with a copy of the same provided to the City.
- (e) If at any time after no less than a fifteen (15) day written notice to the Operator and a public hearing, the City Council shall deem any Operator's bond or letter of credit to be insufficient, it may require the Operator to increase the amount of the bond or letter of credit up to a maximum amount as established by the City fee resolution.
- (f) Whenever the City finds that a default has occurred in the performance of any requirement or condition imposed by this Chapter, a written notice shall be given to the Operator unless immediate compliance is needed due to a serious health or safety condition. Such notice shall specify the work to be done, the estimated cost and the period of time deemed by the City to be reasonably necessary for the completion of any work. After receipt of such notice, the Operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the City one hundred twenty-five (125) percent of the estimated cost of doing the work as set forth in the notice. In no event, however, shall the cure period be less than thirty (30) days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the Operator's failure to provide periodic reports as required by this Ordinance.
- (g) The City shall be authorized to draw against any irrevocable letter of credit or bond to recover such amount due from the Operator. Upon receipt of such monies, the City shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the pipeline has not been properly abandoned under the regulations of the Railroad Commission, such additional money may be demanded from the Operator as is necessary to properly abandon the pipeline and restore the site in conformity with the regulations of this Ordinance.
- (h) In the event the Operator does not cause the work to be performed and fails or refuses to pay over to the City the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the City against the

applicable irrevocable letter of credit or bond the City may proceed to obtain compliance and abate the default by way of civil action against the Operator, or by criminal action against the Operator, or by both such methods or any other remedy available by law.

- (i) When the pipelines and pump stations covered by said irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this Ordinance, and in conformity with all regulations of the Railroad Commission and notice to that effect has been received by the City, or upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

Section 42-403. General insurance requirements.

In addition to the bond or letter of credit required pursuant to this Ordinance, the Operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in Texas. In the event such insurance policy or policies are cancelled, the permit shall be suspended on such date of cancellation and the Operator's right to operate under such permit shall immediately cease until the Operator files additional insurance as provided herein. The general requirements below shall be applicable to all insurance policies described in this article.

- (a) The City, its officials, employees, agents and officers shall be endorsed as an Additional Insured on all applicable policies. A copy of the endorsement is required for evidence of coverage.
- (b) All policies shall be endorsed with a waiver of subrogation in favor of the City. A copy of the endorsement is required for evidence of coverage.
- (c) All policies shall be written on an occurrence basis where commercially available.
- (d) If coverage is written on a claims-made basis, the Operator must maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the permit. The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.
- (e) All policies shall be written by an insurer with an A-: VII or better rating by the most current version of the A. M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the City.
- (f) Deductibles shall be listed on the Certificate of Insurance and shall be on a per occurrence basis unless otherwise stipulated herein.
- (g) Certificates of Insurance shall be delivered to the City evidencing all the required coverage, including endorsements, prior to the issuance of a permit.

- (h) Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
- (i) Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.
- (j) During the term of the permit, the Operator shall report, in a timely manner, to the City any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- (k) Upon request, certified copies of all insurance policies shall be furnished to the City.
- (l) Irrespective of the requirements as to insurance to be carried, the insolvency, bankruptcy or failure of any insurance company to pay claims accruing shall not be held to waive any of the provisions of this Article.
- (m) Operator shall pay promptly all premiums for such insurance in strict accordance with its obligations to its carrier and maintain the required coverage in full effect so long as the permit is valid.
- (n) Failure to keep such policies in full force and effect, in accordance with the terms hereof, shall be unlawful.
- (o) Certificates of insurance.
 - (1) The company must be admitted or approved to do business in the State of Texas, unless the coverage is written by a Surplus Lines insurer.
 - (2) The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO, or an equivalent policy form acceptable to the City, with the exception of Environmental Pollution Liability.
 - (3) Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
 - (4) Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City. All policies shall be endorsed to read: THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCED WRITTEN NOTICE TO THE OWNER AND THE CITY EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED.

(5) Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

(p) *Notice.* The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail. Every Operator shall within ten (10) days notify the City in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

Section 42-404. Commercial General Liability Policy.

This coverage must include premises, operations, or explosion, products, completed operations, sudden and accidental pollution (with discovery and reporting periods of not less than fifteen (15) days and thirty (30) days respectively), blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum as established by the City fee resolution.

Section 42-405. Excess or Umbrella Liability.

Insurance limits in a minimum as established by the City fee resolution. Coverage is to be at least as broad as, applies of and follows form of the primary liability coverage required for commercial general liability, auto liability and employer's liability. Coverage must include an endorsement for sudden or accidental pollution.

Section 42-406. Environmental pollution liability coverage.

- (a) Operator shall purchase and maintain in force for the duration of the permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount as established by the City fee resolution.
- (b) Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.
- (c) The Operator shall maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the permit.
- (d) The extended coverage period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.

Section 42-407. Workers compensation and employers liability insurance.

- (a) Workers Compensation benefits shall be Texas Statutory Limits.
- (b) Employers Liability shall be a minimum in an amount as set by the City fee resolution.
- (c) Such coverage shall include a waiver of subrogation in favor of the City and provide coverage in accordance with applicable State and Federal laws.

Section 42-408. Automobile Liability Insurance.

- (a) Combined Single Limit in an amount set by the City fee resolution.
- (b) Coverage must include all owned, hired and not-owned automobiles.
- (c) The City shall be named as an additional insured on the policy and provided with a waiver of subrogation.

Sections 42-409. – 42.410. Reserved.

DIVISION 8: PENALTIES, APPEALS AND VARIANCES

The following regulations apply to all pipeline, pipeline modification, pipeline abandonment and pump station permits unless a particular permit is denoted.

Section 42-411. Penalty.

- (a) It shall be unlawful and an offense for any person to do the following:
 - (1) Engage in any activity not permitted by the terms of a permit issued under this Chapter; or
 - (2) Fail to comply with any condition set forth in a permit issued under this Chapter.
- (b) It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to make any excavation or construct any lines for the conveyance or transporting of fuel, natural gas, water or minerals; or without first obtaining a permit issued by the City in accordance with this Ordinance.
- (c) A person who violates any provision of this Chapter by performing an act prohibited or by failing to perform an act required is guilty of a misdemeanor; each day the violation continues shall be a separate offense. If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required. Such offense shall be punishable by a fine not to exceed the amount established by the City fee resolution. Although not required, if a culpable mental state is in fact alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and

sanitation, including dumping of refuse, such offense shall be punishable by a fine not to exceed the amount established by the City fee resolution.

Section 42-412. Appeals.

- (a) An appeal shall be in writing and shall be filed with the Oil and Gas Compliance Officer. The grounds for appeal must be set forth specifically, and the error described, by the appellant.
- (b) The Zoning Board of Adjustments shall have and exercise the power to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the issuance of a permit, or the revocation or suspension of any permit issued hereunder as provided by this Ordinance.
- (c) The appeal shall be submitted and processed in accordance with the Zoning Board of Adjustments Policies and Procedures.

Section 42-413. Variances.

When an applicant demonstrates to the City Council that a provision of the regulations in this Chapter would cause unnecessary hardship if strictly adhered to and without destroying the spirit of the regulations or in any way compromising safety, the City Council may authorize a variance.

Sections 42-414 – 42-420. Reserved.