

**TOWN OF WESTLAKE
ORDINANCE NO. 609**

AN ORDINANCE OF THE TOWN OF WESTLAKE, TEXAS ("TOWN"), AMENDING CHAPTER 56 GAS WELLS, ARTICLE I, ARTICLE II, DRILLING AND PRODUCTION, AND ARTICLE III, OIL AND GAS PIPELINE STANDARDS, OF THE WESTLAKE CODE OF ORDINANCES, IN ITS ENTIRETY, REGULATING THE DRILLING AND PRODUCTION OF GAS WELLS WITHIN THE TOWN, TO PROVIDE REVISED REGULATIONS REGARDING DISTANCE, NOISE AND TECHNICAL PROVISIONS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A CUMULATIVE CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Town of Westlake, Texas, (the "Town") is a General Law Municipality located in Tarrant and Denton Counties, Texas, created and operating in accordance with the provisions of the Texas Constitution, the Texas Local Government Code and laws of the State of Texas; and

WHEREAS, on May 24, 2004, the Town Council of the Town adopted Ordinance Number 458 enacting permit procedures, fees and regulations regarding the drilling and production of oil or Gas Wells with the Town limits of Westlake; and

WHEREAS, Ordinance Number 458 has been codified as Chapter 56 in the Town's Code of Ordinances; and

WHEREAS, the Town Council finds that new and additional regulations for the exploration and development of gas and other hydrocarbon substances within and under the Town is necessary in order to protect the surface property rights, to protect the owners of mineral rights and to provide for the orderly exploration, development, and production of oil, gas and other hydrocarbons; and

WHEREAS, the Town Council deems it advisable to amend the current regulations for the drilling, production and re-drilling of oil, gas and other hydrocarbon wells so that these activities may be conducted in a manner that protects the public health, safety and welfare of the citizens and property owners of the Town, conforms with established Town codes and regulations while minimizing the potential impact to surface property and mineral rights owners; and

WHEREAS, the Town Council finds and declares that the regulations contained herein are in the best interest of the public health, safety and general welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTLAKE, TEXAS:

SECTION 1: THAT, the above findings are hereby found to be true and correct and are incorporated herein in their entirety.

SECTION 2: THAT, Chapter 56 of the Town of Westlake Code of Ordinances is hereby amended in its entirety to read as follows:

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CHAPTER 56 GAS AND OIL WELLS

ARTICLE I. IN GENERAL

Sec. 56-1 – 56-30. Reserved.

ARTICLE II. DRILLING & PRODUCTION

DIVISION 1. Generally

Sec. 56-31 Purpose and Intent.

The exploration, development, and production of gas, oil and other hydrocarbons in the Town of Westlake, Texas (the "Town") is an activity that necessitates reasonable regulation to ensure that all property owners, including mineral owners and otherwise, have the right to peaceably enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this Article to establish reasonable and uniform limitations, safeguards and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of gas, oil and other substances produced within the Town to protect the health, safety and general welfare of the public, minimize the potential impact to property and mineral rights owners, and protect the quality of the environment and encourage the orderly production of available mineral resources. It is intended that any mention of a State or Federal governmental agency means that agency or its successor:

Sec. 56-32 Definitions.

All technical industry words or phrases related to the drilling and production of gas, oil and other hydrocarbon wells not specifically defined in this Article shall have the meanings customarily attributable thereto by prudent gas industry operators. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned: A Well or Wells that are taken out of service for an indefinite period of time or without intent to place back into service.

Abandonment: The act of taking a Well or Wells out of service for an indefinite period of time or without intent to place back into service.

Adjacent Property Owner Consent Form: A form provided by the Town to be used for documenting that property owners adjacent to well Drilling Operations have consented to allowing a reduction in the required setbacks that impact their property.

Administrator: The Town Manager or his or her designated representative.

All-weather Surface: A surface that consists of a minimum of six (6)

inches of compacted Class II base rock for grades up to and including five (5%) percent, and oil and screened for grades up to and including fifteen (15%) percent, and asphalt or concrete pavement with a non-skid finish for grades exceeding fifteen (15%) percent.

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.

Applicant: A person, firm, corporation or entity to whom a permit or certificate for the drilling, operation and production of a Well, or the installation or operation of a pipeline, is issued under this Article, including, but not limited to, his or her heirs, legal representatives, successors or assigns.

Base Flood Elevation: Shall be as defined by other Town ordinances.

Blowout Preventer (BOP): A mechanical, hydraulic, pneumatic, or other device or combination of such devices secured to the top of the Well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe or other tubular goods which completely close the top of the casing and are designed to prevent blow outs.

Building: Any structure used, intended for, or capable of supporting or sheltering any use or occupancy. The term "building" shall be construed as if followed by the words "or portions thereof."

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.

Closed Loop Mud System: An enclosed suite of solids control equipment used for mud circulation and intended to minimize drilling fluid dilution to provide for handling of the drilling wastes so that reserve pits are not used.

Completion of drilling, Re-drilling and Re-working: The date the work is completed for drilling, re-drilling, or re-working and the Well status is one in which the Well is capable of production.

Commission: The Texas Railroad Commission and all State rules.

Compressor: Equipment that compresses and propels gas through gathering or sales pipelines.

Compressor – Gas Lift: See Gas Lift Compressor.

Compressor Station: Also referred to as a Pump Station or Compressor Facility; a Compressor Station is a permanent facility housing one or more compressors and is considered to be the engine that powers an Interstate natural gas pipeline.

Construction: Causing of carrying out any building, bulk head, filling, excavation, or substantial improvements to land or to the size of any structure.

Council: The Town Council of the Town of Westlake.

Daytime: The period from 7:00 a.m. to 7:00 p.m., Central Standard Time.

Dedication: Includes, but is not limited to, a permanent easement or a fee simple conveyance or acquisition of land for a specific purpose.

Derrick: Any portable framework, tower, mast and/or structure that is required or used in connection with Drilling, Re-drilling or Re-working a Well for the production of oil and/or gas.

Disposal Well: See Salt Water Disposal Well.

Drilling: Any digging, boring, Re-drilling or Re-working of a new or existing well bore to develop or produce gas or other hydrocarbons, or to inject gas, water, or any other fluid or substance into the earth. Drilling means and includes the re-entry of an abandoned Well.

Drilling Equipment: Derrick, draw works, power plant, rotary table, pumps, together with all parts of an apparatus to such structure, every piece of apparatus, machinery or equipment used in connection with Drilling, Re-drilling or Re-working and operations.

Drilling Operations: All activities related to the drilling of a Well beginning with the preparation of the site and ending with the completion of the Well. Drilling Operations and production do not

occur concurrently on the same well but may occur concurrently within the same Gas Well Pad Site.

Drill Site: Area used during the Drilling, Re-drilling or Re-working of a well or wells prior to the reduction and conversion of the area to an operation site.

Drill Zone: The area within an approved Gas Well Pad Site designated for drilling well bores, as shown on the Site Plan as part of the Specific Use Permit approval process.

Excavation: Any movement or alteration of the surface of the ground by machinery or otherwise in conjunction with or anticipation of Drilling, Re-drilling or Re-working activities or construction of a Pipeline, Drilling, Re-Drilling or Re-working of a well, including but not limited to scraping or grading a site.

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

Federal: The United States Government and its various agencies.

FEMA: The Federal Emergency Management Agency.

Filling: Includes, but is not limited to, disposal of excavated or imported materials.

Fire Chief: The Fire Chief of the Town of Westlake, Texas, or the Town Manager or his designee.

Fire Code: The Fire Code as adopted and amended by the Town.

Fire Marshal: The Fire Marshal of the Town or the Town Manager or his designee. In the absence of a designated fire marshal, the Director of Public Safety of the Town.

Flaring: The process used to burn off gas during the Flow Back Operations stage. The process includes a series of secured piping to facilitate the flow of gas and a combustion chamber to ignite the gas.

Floodplain: Shall be as defined by other Town ordinances.

Flow back Operations: Means necessary to expel water from the

drilling hole in order to facilitate the production of gas.

Frac, Fracture or Fracturing: The process of fracture stimulation of a rock formation, including, but not limited to, the process of pumping sand-laden fluids down a well to stimulate a rock formation.

Fresh Water Well: A well for the production of water.

Gas: Any gas or fluid, either combustible or noncombustible, including but not limited to natural gas, condensate and oil, 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, and/or any material defined or referred to as "gas" in the rules, regulations or forms of the Commission.

Gas Collection System: All pipelines and equipment used to transport gas produced from one or more wells.

Gas Lift Compressor: Any on-site compressor used to lift gas from the well to the Gas Collection System connecting to the on-site Tank or a Tank Battery.

Gas Inspector: The Town Manager or his designee.

Gas Well: Any Well drilled, to be drilled, operated or used for the intended or actual production of natural gas.

Gas Well Pad Site: The area defined on the Site Plan for a Specific Use Permit (SUP) used for all storage and Drilling, Re-drilling, Re-working or Drilling Operations.

Gas Well Pad Site Permit: A Town permit authorizing the construction and operation of a Gas Well Pad Site.

Gas Well Permit: A permit authorizing the Drilling, Re-drilling, Re-entering, Fracturing, Re-working, Abandonment, or Re-Activating of a Well as approved by this Article.

Gas Well Production Site: The area used for the production of Gas. Re-working, Re-fracking, and other Well maintenance activities may also be conducted within this area. Drilling, Re-drilling or Re-working shall only be permitted within the Drill Zone located within a Gas Well Pad Site.

Green Completion: Completion of a Well using the necessary equipment to allow operations and production without the necessity of Flaring or allowing gas to escape into the atmosphere.

Green Well: A Well which has the necessary equipment installed so as to allow operations and production without the necessity of Flaring or allowing Gas to escape into the atmosphere.

Habitable Structures: Structures defined by the Town's ordinances meeting requirements for human habitation or occupation, including, but not limited to, single or multifamily residences, hotels, condominium buildings, buildings for commercial purposes and enclosed spaces in which individuals congregate for education, worship, amusement or similar purposes, or in which occupants are engaged in labor, and which are equipped with means of egress, light, and ventilation facilities. Each building of a condominium regime is considered a separate Habitable Structure, but if a building is divided into apartments, then the entire building, not each individual apartment, is considered a single Habitable Structure. Additionally, a Habitable Structure includes porches, gazebos and other attached improvements.

Hazardous Liquid: Shall mean petroleum or any petroleum product, and any substance or material which is in a liquid state, when transported by pipeline facilities and which has been determined by the United States Secretary of Transportation to pose an unreasonable risk to life or property when transported by pipeline facilities. The term shall be enlarged to include liquified natural gas and anhydrous ammonia should such materials at any time be introduced into any pipeline subject to this Article. It shall also include carbon dioxide, defined as a fluid consisting of more than ninety (90%) percent carbon dioxide molecules compressed to a supercritical state.

Hazardous Materials and Site Safety Management Plan: The hazardous materials management plan and hazardous materials inventory statements required by the Town Fire Code as well as a site safety plan which shall comply with Federal rules and regulations for a construction and hazardous materials work zone to include, but not limited to, a plan with all monitoring equipment/maintenance plans listed.

Health Care Facility: A location at which medicine or licensed healthcare is practiced regularly. Medical Healthcare Facility includes,

but is not limited to, small clinics and doctor's offices to urgent care centers and large hospitals.

High Impact Gas Well Pad Site: A Gas Well Pad Site containing a Drill Zone that is closer than six hundred (600) feet from a Protected Use.

Idled Pipeline: A pipeline that has been inactive for at least two (2) years.

Inactive pipeline: A pipeline that has temporarily been taken out of service for a period of at least six (6) months for hazardous materials or hazardous liquids and one (1) year for natural gas with the expectation that the pipeline may be reactivated within two (2) years even though there may be no specific plans to reactivate the pipeline.

Inspector: The Gas inspector designated by the Town Manager.

Line Marker: A marker identifying the location of a buried pipeline, as defined in 49 CFR 192.707, as amended.

License: A license issued by the Town of Westlake to permit certain uses for a prescribed amount of time at a prescribed location.

Man Made Barriers: Barriers other than natural terrain used to aid in the protection of a Protected Use from some of the possible hazards associated with a Gas Well. Man Made Barriers shall only be allowed as approved during the Specific Use Permit approval process.

Master Gas Well Plan: A plan showing multiple Gas Well Pad Sites and the related gas lines and waste water disposal lines, detailing how consideration has been made to coordinate facilities and minimize negative impacts to roadways and neighboring properties.

Multiple Pad Site Special Use Permit: Specific Use Permit that contains more than one Gas Well Pad Site within the Site Plan.

New Pipelines: Pipelines constructed after the effective date of this Article but shall not include (a) the replacement or repair of any existing pipeline; (b) the realignment of a portion of an existing pipeline to a position that is not greater than fifty (50) feet from its original position; or (c) surface appurtenances added to existing pipelines.

New Well: A New Well bore or new hole established at the ground

surface and shall not include the re-working of an existing Well that has not been Abandoned unless the Re-working involves Drilling to a deeper total depth.

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

Operation Site: The area used for development and production and all operational activities associated with gas after drilling activities are complete.

Operations: Activities leading to and supporting the production of Gas.

Operator: For each Well, the Person listed on the Railroad Commission Form W-1 or Form P-4 for a Well, that is, or will be, actually in charge and in control of Drilling, Re-drilling, Re-working, maintaining, operating, pumping or controlling any well including, without limitation, a unit Operator. If the Operator, as defined herein, for any Well is not the lessee of any premises affected by the provisions of this Article, then such lessee shall also be deemed to be an Operator. In the event there is no Gas lease relating to any premises affected by this Article, the owner of the fee mineral estate in the premises shall be deemed the Operator.

Pad site: See Gas Well Pad Site.

Permittee: Any Person authorized to act under a Gas Well Permit, license, or a certificate issued by the Town.

Person: An individual, firm, corporation, entity, or agent thereof, including the United States government, State, municipality, Commission, political subdivision, international or interstate body or any other governmental entity.

Pipeline: All parts of those physical facilities through which Gas, hazardous liquids or chemicals move in transportation, including, but not limited to, pipe, valves and other appurtenance attached to pipe, whether or not laid in public or private easement or public or private right-of-way within the Town.

Pipeline or Well Emergency: A pipeline or Well incident in which any of the following has occurred or is occurring:

1. Fire or explosion not initiated by the Owner/Operator as part of its operations (in accordance with accepted safety practices).

2. Release of a Gas, hazardous liquid or chemical that could adversely impact the environment or health of individuals, livestock and/or domestic animals, and wildlife, within the Town.
3. Death of any Person attributable to the operations of the Pipeline or Well.
4. Bodily harm to any Person that results in loss of consciousness, the need to assist a Person from the scene of the incident or the necessity of medical treatment in excess of first aid.
5. Damage to private or public property not owned by the pipeline or Well Owner or Operator in excess of five thousand dollars (\$5,000.00) in combined values, as determined by the Administrator.
6. The rerouting of traffic or the evacuation of Buildings or Protected Uses.

Pipeline Permit: A permit applied for and issued or denied pursuant to this Article authorizing the movement of Gas, water or other products to or from the location of a Well.

Pipeline Review Committee: A committee appointed by the Town Manager, consisting of Town Staff, and others as deemed necessary, to seek resolution of any substantive, non-resolvable technical issues related to the issuance of a Pipeline Permit.

Pipeline Owner or Operator: Any person owning, operating or responsible for operating an oil or gas pipeline for the purpose of transporting Gas, or liquids related to the production of Gas or other hydrocarbons.

Planning and Zoning Commission: The Planning and Zoning Commission of the Town of Westlake, Texas.

Post-Drilling: That time after the Drilling or Re-drilling phase is completed.

Practicable: In determining what is practicable, the Pipeline Review Committee shall consider the effectiveness, scientific feasibility and commercial availability of the technology or technique.

Pre-Drilling: The time prior to the start of the boring process.

Production: The collection and distribution process.

Property Owner: The owner of the surface property.

Protected Use: A Habitable Structure, Religious Institution, Public Building, Healthcare Facility, School or Public Park. This term shall not apply to accessory buildings, garages, hangars, or storage buildings.

Public Building: All Buildings or Habitable Structures used or designed to and intended to be used for the purpose of assembly of persons for such purposes as deliberation, entertainment, amusement, or health care. Public Buildings include, but shall not be limited to, theaters, assembly halls, auditoriums, armories, mortuary chapels, dance halls, exhibition halls, museums, office buildings, government use facilities, gymnasiums, bowling lanes, libraries, skating rinks, courtrooms, restaurants, shopping malls, stores, and healthcare facilities.

Public Park: Any land area dedicated to and/or maintained by the Town for park-like recreational purposes, but not including trails, sidewalks, privately-owned parks / amusement parks or privately-owned or privately-managed golf courses.

Re-Drill: Re-completion of an existing Well by deepening or sidetrack operations extending more than one hundred fifty (150) feet from the existing well bore. Re-drilling must be conducted within an approved Drill Zone. Re-drilling shall also mean deepening, re-entering, re-fracking, activating or converting.

Religious Institution: Any Building or Habitable Structure in which persons regularly assemble for religious worship and activities intended for purposes connected with such worship or for propagating a particular form of religious belief.

Residence: A house, duplex, apartment, townhouse, condominium, mobile home or other building designed or used for dwelling purposes.

Reactivating: The act of placing an Abandoned Well or Pipeline back into service.

Re-working or Re-working Operations: Re-completion or re-entry of existing Well within the existing bore-hole or by deepening or sidetrack operations which do not extend more than one hundred fifty (150) feet from the existing Well bore, or replacement of Well liners or casings.

Right-of-way: Shall mean public rights-of-way, including streets, easements and other property within the Town and which is dedicated to the use and benefit of the public.

Road Repair Agreement: A contractual agreement between the Town and the Operator obligating the Operator to repair damage, excluding ordinary wear and tear, if any, to Right-of-way caused by the Operator or its employees, agents, contractors, subcontractors or representatives in the performance of Drilling, Re-Drilling, Re-working, fracturing or production of any Wells authorized by the Town. In addition, said agreement may contain Town imposed requirements, prior to issuance of a Gas Well Permit, for improvements to any Right-of-way the use of which is required by the Operator for his well drilling and/or production operations.

Roadway Landscape Zone: As defined by other Town ordinances.

Rural Gas Well Pad Site: A Gas Well Pad Site containing a Drill Zone that is greater than (1,000) one-thousand feet from a Protected Use.

Salt Water Disposal Well: Any well used for the disposal of salt water or other waste materials.

Salt Water Disposal Well - Commercial: Any well used for the disposal of salt water or other waste materials for a fee or other compensation.

School: Any public or private, primary or secondary educational facility or any licensed day care center, (a facility licensed by the State of Texas or by the Town that provides care, training, education, custody, treatment or supervision for more than six (6) children under fourteen (14) years of age, and for less than twenty four (24) hours per day.)

Site Plan: Shall include all plans as required for obtaining a Specific Use Permit and or a Site Plan amendment meeting all of the requirements included in this Article and other Town ordinances for Site Plans.

Specific Use Permit: A permit recommended by the Planning and Zoning Commission and authorized by the Town Council for the use of land or structures in accordance to the provisions in the Zoning Ordinance.

State: The State of Texas.

Street: Any street, highway, roadway, sidewalk, alley, avenue, access easement, recessed parking area or other public right-of-way,

including the entire right-of-way.

Structure: Without limitation, any building, or combination of related components constructed in an ordered scheme that constitutes a work or improvement constructed on or affixed to land, including, but not limited to, Habitable Structures, partially enclosed structures, enclosed tanks, etc.

Surface Area Agreement: A contractual agreement between a property owner and another party granting the party certain rights for usage of the surface of the property.

Tank: A container for holding or storing fluids located on a Gas Well Pad Site (covered or uncovered) used in conjunction with the drilling, completion operations, or production of Gas, formation water, or other hydrocarbons.

Tank Battery: Two or more tanks located within a Gas Well Pad Site.

Tank Battery Facility: A collection of tanks located other than inside a Gas Well Pad Site serving as a point of collection (tanks) and disbursement (tank, meter, lease automated custody transfer unit) of oil or gas from producing well(s).

TCEQ: The Texas Commission on Environmental Quality.

Technical Advisor: A Person familiar with and educated in the Gas industry or the law as it relates to Gas matters who may be retained from time to time by the Town.

Temporary Perimeter Fence: A fence placed along the perimeter of a Gas Well Pad Site to provide visual screening and security or trespass prevention until the required permanent perimeter wall is installed. Materials and time limitations shall be as approved by the Town Council as part of the Specific Use Permit approval process.

Town: The Town of Westlake, Texas.

Town Manager: The Town Manager of the Town of Westlake, Texas, or his designee.

Unified Development Code: Those chapters of the Code of Ordinances that are related to Planning and Development activities make up the Unified Development Code of the Town of Westlake, Texas, as

amended.

Unregulated Pipeline: Those pipelines within the Town that are exempt under Federal and State rules that exclude such lines from construction standards, safety standards or reporting requirements of either or both Federal and State governments.

Urban Gas Well Pad Site: A Gas Well Pad Site containing a Drill Zone that is not closer than six hundred (600) feet from a Protected Use and not farther than one thousand (1,000) feet from the nearest Protected Use.

Water Pits: A Town approved excavation designed for the storage of water to be utilized in Drilling, Re-Drilling, Re-working, Fracking, or Work-Over Operations.

Well: A hole or bore to any horizon, formation, or strata for the purpose of producing Gas.

Well Permit: See Gas Well Permit.

Work-Over Operations: Work performed in a Well after its completion in an effort to secure production where there has been none, restore production that has ceased or increase production.

Zoning Ordinance: The Comprehensive Zoning Ordinance of the Town of Westlake, Texas, as amended.

Sec. 56-33. Gas Well Permitting Process Summary.

Prior to drilling a Gas Well in the Town a Specific Use Permit must be approved by the Town Council. The Specific Use Permit process requires the applicant to conduct a neighborhood meeting with property owners within one thousand (1000) feet of the proposed site and submit a Site Plan as part of the application. The Site Plan must show drawings, elevations and details relating to the proposed Gas Well Pad Site. The Specific Use Permit is presented to the Planning and Zoning Commission for a recommendation and is considered for approval by the Town Council. After the Specific Use Permit is approved, an application may be made for a Gas Well Pad Site Permit. The issuance of a Gas Well Pad Site Permit authorizes the applicant to develop the Gas Well Pad Site. After the Gas Well Pad Site is developed

and approved by Town staff, an application may be made for one or more Gas Well Permits to authorize the drilling of wells within the Drill Zone of the approved Gas Well Pad Site. Gas Well Pad Sites and Gas Well Permits are approved administratively by Town staff.

Sec. 56-34. Specific Use Permit Required.

- a) A Specific Use Permit (SUP), per the Town's Zoning Ordinance, must be applied for and approved by the Town prior to the approval of a Gas Well Pad Site Permit or a Gas Well Permit.
- b) A Multiple Pad Site Specific Use Permit may be applied for when multiple Gas Well Pad Sites under the control of the same operator or property owner are shown on the required Site Plan as part of a Master Gas Well plan.

Sec. 56-35. Site Plan requirements.

A Site Plan must be submitted with all applications for a SUP. If the property is located within a Planned Development, a PD Site Plan Amendment must be processed concurrently with the SUP.

- a) Site Plans shall include, as a required minimum, all items required for a Site Plan as detailed in the Zoning Ordinance along with the following:
 - 1) Show a traffic management plan identifying all truck routes and vehicle ingress/egress access points to the Gas Well Pad Site from a street or street right-of-way.
 - 2) Show the location and use of all structures and Protected Uses within one thousand (1,000) feet of the Gas Well Pad Site.
 - 3) Show the location of all private roads to be used to access the Gas Well Pad Site as well as all points of intersection and ingress/egress of private roads to a street.
 - 4) Show location of all vehicle parking and storage areas. Describe parking and drive area surfaces proposed.
 - 5) Identify the proposed source of water and any other public

utilities required.

- 6) Identify all proposed water storage facilities including all on-site retention ponds and how those ponds will be utilized as a landscape water feature on the Gas Well Pad Site's landscape plan.
- 7) Identify the one hundred (100)-year floodplain and if a well is located in any part of this one hundred (100)-year floodplain, how the well will be sited to comply with the floodplain regulations contained in this and other Town Ordinances.
- 8) Identify and show the proposed method of erosion control.
- 9) Identify a screening and landscape plan, as well as an executed third-party landscape maintenance agreement, with frequency of landscape maintenance for all landscape plant materials. Illustrate all proposed screening materials, methods of irrigation, proposed planting materials, and elevations displaying how the proposed screening will prevent views of all on-site production tanks and equipment on the proposed Gas Well Pad Site.
- 10) Show a tree preservation and mitigation plan.
- 11) Show a site security plan for all Drilling and Post-Drilling Operations.
- 12) Show a copy of the noise management plan, prepared by a noise control engineer or other qualified person approved by the Town, for any equipment used in the drilling, completion, or production of a well.
- 13) Show an outdoor lighting plan for all Drilling and Post-Drilling Operations.
- 14) Show a dust mitigation plan that details monitoring and air quality control measures to be implemented to mitigate and suppress dust generated at the drill site and the private vehicle access route for Drilling and Post-Drilling operations. Brine water, sulphur water, or water in mixture with any type of hydrocarbon may not be used for dust suppression.
- 15) Show a waste disposal plan for all Drilling and Post-Drilling

operations including the site's Hazardous Materials and Site Safety Management Plan (HMSP).

- 16) Show the proposed locations, elevations, design or construction details, and height of all on-site telemetry equipment.
- 17) Show location of all on-site fresh water wells proposed to serve the Gas Well Pad Site.
- 18) Show the location of Pipelines, existing and proposed, and any easements from the well to the Tank or to the Tank Batteries as well as from the Gas Well to the Gas Well pipeline and Gas Collection System for approval.
- 19) Submit all Adjacent Property Owner Consent Forms.
- 20) Show all equipment and structures that may be located on site or used during the Drilling and Production phases.
- 21) Show that the Gas Well Pad Site will comply with all requirements of this chapter applicable to Gas Well Pad Sites and Gas Wells.

Sec. 56-36. Gas Well Pad Site Permit Required.

- a) A Person shall not engage in the Drilling and Production of Gas Wells within the corporate limits of the Town without first obtaining a Gas Well Pad Site Permit.
- b) All approved Gas Well Pad Site Permits shall be filed of record by the Operator, at its expense in the applicable county deed records and indicated on all applicable plats filed in the deed records. Each filed Gas Well Pad Site Permit shall contain the street address, lot and block, subdivision name, plat volume and page of each lot, tract or parcel located within one thousand (1000) feet of the Gas Well Pad Site.
- c) After a Gas Well Pad Site Permit has been issued, the Operator shall place, and maintain at all times, at least one sign, as approved by the Town, on the property located in a conspicuous place or places upon the property at a point or points visible from any Right-Of-Way or Protected Use adjacent to such property. The Gas Inspector may

require additional signage if the Pad Site fronts on more than one Right-Of-Way. The sign shall indicate that a Gas Well Pad Site Permit has been obtained for the purpose of drilling Gas Wells on the Site, and shall further set forth that additional information can be acquired by telephoning the Operator at the number indicated on the sign. The sign shall remain posted at the Gas Well Pad Site for the duration of the Gas Well Pad Site Permit.

- d) The issuance of a Gas Well Pad Site Permit allows future wells to be drilled on an existing Gas Well Pad Site within the approved Drill Zone. All Gas Wells subsequently drilled upon a permitted Gas Well Pad Site shall otherwise comply with any drilling distance regulations for and from a Protected Use or other structure as required by State law and applicable fire code regulations and all other provisions of the Article. Further, all Gas Wells drilled over time on an approved Gas Well Pad Site shall comply with all Town setback requirements in place at the time of approval of the Gas Well Pad Site Permit.
- e) Prior to the commencement of drilling of a Gas Well on a permitted Gas Well Pad Site, the Operator must submit an application for the issuance of a Gas Well Permit, pay all applicable fees, and fulfill all other requirements for the approval and issuance of said permit, in accordance with this Article.

Sec. 56-37. Gas Well Pad Site Permit Application and Requirements.

- a) Every application for a Gas Well Pad Site Permit issued pursuant to this Article shall be in writing signed by the Operator, or some person duly authorized to sign on its behalf, and filed with the Town.
- b) An application deemed complete by the Town shall include, as a minimum, the following information:
 - 1) All required applications, including an approved Specific Use Permit (SUP) and all permit fees and any other applicable fees as set out in the fee schedule approved by the Town Council.
 - 2) The date of the application and classification of the Gas Well Pad Site Permit requested.
 - 3) Surface owner name(s) and address of the Gas Well Pad Site property.

- 4) Applicant/Operator name and address and if the Operator is a corporation, the State of incorporation, and if the Operator is a partnership, the names and addresses of the general partners.
- 5) Name and address of individual designated to receive notice.
- 6) Name of representative(s) with supervisory authority over all gas operation site activities and a twenty four (24) hour phone number.
- 7) Owner and address of each parcel of property within one thousand (1,000) feet of the proposed Drill Zone.
- 8) A Site Plan of the proposed Gas Well Pad Site meeting all of the requirements contained in this Article and the requirements contained in the Town's Zoning ordinances for Site Plans.
- 9) The name, address and twenty-four (24) hour phone number of the person to be notified in case of an emergency.
- 10) The exact and correct acreage included in the Gas Well Pad Site Permit application.
- 11) An original executed Road Repair Agreement, signed and approved by the Town Manager and filed with the Town Secretary, that provides that the Operator shall repair, at the Operator's sole expense, any damage, as may be determined by the Town, to Right-of-Ways caused by the use of vehicles for any activity associated with the preparation, drilling, production, and operation of Gas Wells. The Road Repair Agreement may also cover improvements to Right-of-Ways required for the Operator to service its Gas Well during well drilling and Well production and that said improvements may be required to be completed by the Operator before drilling and/or production can commence.
- 12) A statement, under oath, signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct.
- 13) For Gas Well Pad Sites desiring to reduce setbacks, all applicable Adjacent Property Owner Consent Forms must be

included along with the prescribed fee for their review, validation and filing.

Sec. 56-38. Gas Well Pad Site Setbacks from Protected Uses.

- a) Minimum distance from a Drill Zone to a Protected Use. Gas Well Pad Sites shall have designated Drill Zones that are setback a minimum of one thousand (1,000) feet from all Protected Uses.

Exceptions:

- 1) A Setback Reduction Approval reducing the setback to a distance between one thousand (1,000) feet and six hundred (600) feet may be authorized by the Town Council as part of the Specific Use Permit approval process. The Applicant must show that the reduction is necessary 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, the Town Council may approve a Setback Reduction Approval authorizing a setback of less than one thousand (1,000) feet but no less than six hundred (600) feet except as outlined in exception 2 of this section.
- 2) 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 Setback Reduction Approval reducing the setback to a distance between six hundred (600) feet and three hundred (300) feet may be approved by the Town Council as part of the Specific Use Permit approval process provided that signed Adjacent Property Owner Consent Forms from all property owners with Protected Uses that will be less than six hundred (600) feet from the proposed Drill Zone are obtained by the operator and submitted as part of the Specific Use Permit application.
- 3) The Drill Zone within a Gas Well Pad Site must be setback a minimum of three-hundred (300) feet from all adjacent property lines and Right-of-Way lines.

Exceptions:

- a. This distance may be reduced with consent from adjacent

property owners via the Adjacent Property Owner's Consent Form and approval by the Town, provided that a minimum three hundred (300) feet setback from all Protected Uses is maintained.

- b. The Town Council may approve a reduction in setback from a right-of-way line if adequate justification is presented during the Specific Use Permit approval process.
- 4) Setbacks for Protected Uses can be established after a Gas Well Pad Site Permit has been issued. Protected Uses may not be established closer than three hundred (300) feet from the Drill Zone of a permitted Gas Well Pad Site.

Exception:

Commercial uses may be located within two hundred (200) feet of an existing Drill Zone.

Sec. 56-39. Gas Well Pad Site Classifications.

a) Gas Well Pad Sites shall be classified as follows:

- 1) High Impact Gas Well Pad Site: the Gas Well Pad Site contains a Drill Zone that is located within six hundred (600) feet of a Protected Use at the time of the filing of a Gas Well Pad Site Permit application.
- 2) Urban Gas Well Pad Site: the Gas Well Pad Site contains a Drill Zone that is located between six hundred (600) feet and one thousand (1000) feet of a Protected Use at the time of the filing of a Gas Well Pad Site Permit application.
- 3) Rural Gas Well Pad Site: the Gas Well Pad Site contains a Drill Zone that is located more than one thousand (1000) feet from a Protected Use at the time of the filing of a Gas Well Pad Site Permit application.

b) Additional regulations are specific to individual Gas Well Pad Site classifications. In addition to all of the regulations contained in this Article that are applicable to Gas Well Pad Sites, the following regulations shall apply to the individual classifications listed:

1) High Impact Gas Well Pad Site Permit.

- a. High Impact Gas Well Pad Sites must have physical barriers between the Drill Zone and any Protected Uses within six hundred (600) feet of the Drill Zone. The barrier may be earth by natural grade or berms, or other approved substantial barrier that will provide similar protection from projectiles, shock waves, fire spread, and radiant heat resulting from an explosion or fire at the Drill Zone. Berms must be designed, constructed and landscaped to comply with the requirements for berms in the Town Edge Zones as regulated by the Zoning Ordinance. Man made barriers, when approved, must be painted or decorative in nature so as to blend in with the surrounding walls and landscaping and be approved by the Town Council as a part of the Specific Use Permit application.
- b. The exterior noise level generated by the drilling, re-drilling, re-working or other operations of all Gas Wells 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. Lighting plans with photometric details shall be provided for all High-Impact Gas Well Pad Sites demonstrating strict compliance with the Town's outdoor lighting ordinances.
- d. No Gas Well Permit shall be issued for a High Impact Gas Well Pad Site unless the Gas Well Pad Site is graded in such a way as to comply with the following:
 1. The Gas Well Pad Site shall not drain directly onto adjacent tracts, parcels or platted lots, without an easement and shall not block or adversely redirect drainage from adjacent tracts, parcels or platted lots.
 2. The slope of any fill material shall have a maximum ratio of three (3) feet horizontal to one (1) foot vertical, unless a retaining wall system is built.
 3. Fill material must be leveled and graded for positive

drainage.

4. The placement of fill material may not cause the release of dust and/or odor, damage any public improvements or public infrastructure, or be placed in a floodplain or floodway without a floodplain development permit from the Floodplain Administrator. The placement of fill material shall not result in flooding or significant increase in runoff to adjacent properties.
5. Erosion control measures must be implemented to prevent any off-site migration of silt and sediment.

2) Urban Gas Well Pad Site Permit.

- a. Urban Gas Well Pad Sites require all regulations and exceptions contained within this Article other than those applicable specifically to High Impact Gas Well Pad Sites or Rural Gas Well Pad Sites.

3) Rural Gas Well Pad Site Permit.

- a. Rural Gas Well Pad Sites may be allowed to delay all or part of its landscape and screening wall installation as approved by the Town Council provided a specific time schedule is provided as a part of the Specific Use Permit application. The landscape and screening wall installation can be required immediately by the Town upon the Final Platting or issuance of a building permit for a Protected Use located on any property within the setback requirements for High Impact or Urban Gas Well Pad Sites.

Sec. 56-40. Gas Well Pad Site Standards.

a) Gas Well Pad Site setbacks:

- 1) The perimeter of a Gas Well Pad Site must be setback a minimum of seventy-five (75) feet from an adjacent property line.

Exception:

- a. This distance may be reduced with consent from adjacent property owners via the Adjacent Property Owner's Consent Form and approval by the Town.
- 2) When a Gas Well Pad Site is fronting on one or more Right-of-Ways, the building setback requirements for the perimeter wall of the Gas Well Pad Site shall be met as established for that lot by zoning regulations or as approved by the Site Plan as submitted during the Specific Use Permit approval process.

b) Gas Well Pad Sites in general:

- 1) All future Gas Wells drilled on a permitted Gas Well Pad Site shall comply with all the current applicable Gas Well Pad Site classification regulations, including the notice and landscape provisions, and all other provisions of this ordinance, except for the distance setback requirements related to Drill Zone separation from a Protected Use. However, no well shall be drilled closer than three hundred (300) feet from any Protected Use. The distance shall be calculated from the Drill Zone, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building containing a Protected Use.

Exception:

- a. Commercial uses may be located within two hundred (200) feet of an existing drill zone.
- 2) No Gas Well Pad Site Permit shall be issued for a Gas Well Pad Site greater than five (5) acres in surface area or the amount of surface area acreage included in the Surface Use Agreement, whichever is larger.
- 3) No Gas Well Pad Site may contain more than one Drill Zone.
- 4) Any number of wells may be drilled within the Drill Zone of a Gas Well Pad Site.
- 5) The maximum height of any drilling equipment allowed within a Gas Well Pad Site is two hundred (200) feet above the average grade of the Gas Well Pad Site.

- 6) The maximum height of any equipment other than drilling equipment shall be eight (8) feet above the average grade of the Gas Well Pad Site.

Exceptions:

- a. If adjacent grades and or other screening measures will effectively screen the equipment from view from adjacent properties or right-of-way, the Town Council may approve a higher limit.
 - b. Posts or supports for lightning protection may exceed the eight (8) feet limit by the amount necessary to provide adequate protection for the site provided that a plan is submitted demonstrating the necessity for the increased height requested and the posts or supports are made of metal, fiberglass or other approved material.
 - c. Telemetry equipment may be approved if included in the Site Plan to be approved with the Specific Use Permit.
- 7) Perimeter Wall requirements: A perimeter wall of a minimum of eight (8) feet in height shall be required to enclose and visually screen the Gas Well and all associated equipment and structures during Post-Drilling operations. Low-profile equipment or facilities must be used on the production site and must not exceed the height of the screening wall. Construction materials for the perimeter wall shall include stone, cast stone, split-face concrete masonry units, or other masonry materials approved by the Specific Use Permit process. Wrought Iron fencing, with masonry columns spaced at twenty four (24) feet or less, may be used in conjunction with vegetation when approved by the Town Council. A temporary perimeter fence may be approved for all or part of the Gas Well Pad Site during Drilling Operations if approved during the Specific Use Permit approval process provided that a time schedule for removal is agreed to by the Town.
 - 8) Gate Specifications. All masonry perimeter walls shall be equipped with at least one (1) gate. The gate shall be an architectural gate that is not less than twelve (12) feet wide and may 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:

- a. The perimeter wall shall have an architectural metal gate that shall remain locked when the Operator or his employees are not within the enclosure.
 - b. Operator must provide the Town Fire Chief with a "Knox Padlock" or "Knox Box with a key" to access the well site to be used only in case of an emergency.
- 9) Landscaping, Screening, and Tree Preservation and Mitigation.
- a. All Gas Well Pad Sites must meet the landscape requirements contained within the Town's Ordinances. Installation of those portions of the landscaping that will be located within the proposed perimeter wall of the Gas Well Pad Site, but outside the proposed perimeter wall of the Gas Well Production Site, may be delayed until the transition from drilling to production has been completed provided that the time schedule for such transition has been approved by the Town Council as a part of the Operator's approved Specific Use Permit.
 - b. All Gas Well Pad Sites must also be landscaped along its entire perimeter. All of the following landscape requirements must be met:
 1. *Tree density.* A minimum of six (6) trees are required per one hundred (100) linear feet of perimeter wall, which may be planted anywhere within an area between the perimeter wall and a zone forty (40) feet wide along the outside of the perimeter wall. Credit will be given for maintaining existing trees as follows: the total number of trees required by this subsection shall be reduced by the number of existing trees of equal or greater caliper that are maintained.
 2. *Tree size.* At least sixty percent (60%) of the trees shall be three (3) inch caliper or greater, and the remainder shall be two (2) inch caliper or greater.
 3. *Protected trees.* Protected trees (as defined in the Unified Development Code) that are to be

removed from the site shall be replaced within the site or forty (40) foot surrounding zone if space permits. If there is not sufficient planting space within the site or zone to meet the tree replacement requirements, then they may be planted within other portions of the lot; in the Right-of-Way median (if present), or on other land or Right-of-Ways in the subdivision or the town. A sufficient number of trees shall be planted to equal, in caliper, the diameter of the protected tree(s) that are removed.

4. In addition to the trees required for Tree Density, the following landscaping must be installed along the perimeter of each Gas Well Pad Site:
 - a. Large evergreen shrubs, with an initial height of three (3) feet, that will create a solid planting within two (2) years plus a minimum of one (1) large tree planted per each thirty (30) linear feet of perimeter wall; or
 - b. Evergreen trees planted to create a solid planting within two (2) years at a minimum height of eight (8) feet. Trees shall be a species of Eldarica Pine, Japanese Black Pine, Austrian Pine, Red Cedar (male), Leyland Cypress, or other trees approved by the Town Manager; or
 - c. Rural Gas Well Pad Sites may install a wrought iron fence with masonry columns and a berm with evergreen shrubs planted to create solid planting within two (2) years plus a minimum of one (1) large tree for each thirty (30) linear feet of the berm. The minimum height of the berm shall be four (4) feet, measured from the highest existing elevation of the Gas Well Pad Site. Berm side-slopes shall not exceed a 3:1 slope (to allow safe mowing and maintenance of the slope). Evergreen shrubs shall be planted on the berm for an extra five (5) feet minimum screen height; or
5. Additionally, the landscaping shall include

ground cover, low level plantings, mid level trees and shrubs, and other features as depicted in the Landscape /Screening Design exhibits contained in the Gas Well Pad Site Design Guidelines.

- a. Tree preservation and mitigation shall be required for all Gas Well Pad Sites as required by the Town provided that the Town Council may impose additional tree preservation, mitigation, or landscape requirements as part of the Specific Use Permit approval process.

10) The Town Council may alter or waive any of the landscape or screening provisions of this section if the location and or site conditions are such that compliance with the intent of this section can still be obtained or will result in the preservation of existing trees or other desirable natural features.

11) All Gas Well Pad Sites must be accessible by a Fire Apparatus Access Road as approved by the Fire Department.

Sec. 56-41. Gas Well Permit Required.

- a) A Gas Well Permit may only be issued for a well to be located within an approved and completed Gas Well Pad Site. It shall be unlawful for any Person to drill any Gas Well, or to assist in any way re-working, fracturing or operating any such Gas Well or to conduct any activity related to the production of Gas without first obtaining a Gas Well Permit issued by the Town in accordance with this Article.
- b) Operator must apply for and obtain a Gas Well Permit for the Drilling, Re-drilling, Re-entering, Fracturing, Re-working, Abandoning, or Re-Activating of each well on the approved Gas Well Pad Site.
- c) An approved Gas Well Permit shall not constitute authority for the Drilling, Re-drilling, Re-entering, Fracturing, Re-working, Abandoning, or Re-Activating of an Abandoned Well. An Operator shall obtain a new Gas Well Permit if the Operator is re-entering and drilling an Abandoned Well.
- d) When a Gas Well Permit has been issued to the Operator for the Drilling, Re-drilling, Re-entering, Fracturing, Re-working, Abandoning,

or Re-Activating of a well, such Gas Well Permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, or repair, of the Gas Well.

- e) Any person who intends to Re-work a permitted Gas Well after initial completion shall obtain a permit and give written notice to the Gas Inspector no less than ten (10) days before the Drilling, Re-drilling, Re-entering, Fracturing, Re-working, Abandoning, or Re-Activating activities begin. The notice must identify where the activities will be conducted and must describe the activities in detail, including the duration of the activities and the time the activities will be conducted. The notice must also provide the address and 24-hour phone number of the person conducting the activities. If required by the Gas Inspector, the person conducting the Re-working activities will post a sign on the property giving the public notice of the activities, including the name, address and twenty four (24) hour phone number of the person conducting the activities. If a Re-working permit is issued, all Re-working Operations will be conducted within the conditions of the original Gas Well Permit.
- f) A Gas Well Permit shall be valid for the purpose of drilling or Re-Drilling for a period of one (1) year from the date of issuance. A new Gas Well Permit shall be required for Drilling, Re-drilling, Re-entering, Fracturing, Re-working, Abandoning, or Re-Activating that occurs in any subsequent year. Gas Well drilling equipment shall not be allowed to be located within a Gas Well Pad Site or Gas Well Production Site without a valid Gas Well Permit.
- g) The Gas Well Permits required by this Article are in addition to and are not in lieu of the Gas Well Pad Site Permits or of any other permit which may be required by any other provision of this Code or by any other governmental agency.
- h) No Gas Well Permit shall be issued for any Gas Well to be drilled within or upon any Town owned property without the prior consent of the Town Council. The Town Council may require additional insurance and security requirements above and beyond the limits established in this Ordinance.
- i) A floodplain development permit as required by the Town's ordinances and approved by the Floodplain Administrator shall be required prior to the approval of a Gas Well Permit for any drill site within an area of special flood hazard.

- j) A Gas Well Pad Site Permit shall expire at the end of two (2) years from the date of issuance if no Gas Well Permit has been issued for a Gas Well within the Gas Well Pad Site.

Sec. 56-42. Gas Well Permit Application, Requirements and Filing Fees.

- a) Every application for a Gas Well Permit issued pursuant to this Article shall be in writing, signed by the Operator, or some person duly authorized to sign on his behalf, and filed with the Gas Inspector.
- b) The application shall include, as a minimum, the following information:
 - 1) The date the application is submitted.
 - 2) Proposed well name.
 - 3) The approved Gas Well Pad Site Permit and its approved Specific Use Permit.
 - 4) Updated surface owner name(s) and address of the pad site property if this has changed since the approval of the Gas Well Pad Site Permit.
 - 5) Applicant/Operator name and address and if the Operator is a corporation, the state of incorporation, and if the Operator is a partnership, the names and addresses of the general partners.
 - 6) Updated name and address of individual designated to receive notice if this has changed since the approval of the Gas Well Pad Site Permit.
 - 7) Updated name of representative with supervisory authority over all gas operation site activities and a twenty four (24) hour phone number if this has changed since the approval of the Gas Well Pad Site Permit.
 - 8) Copies of all reports required or provided by the Railroad Commission as requested by the Gas Inspector.
 - 9) Evidence of meeting all insurance and security requirements of this Article.

- 10) A statement, under oath, signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct.
 - 11) The Emergency Response Plan for this Gas Well Pad Site as required in this Ordinance.
- c) All required applications and Gas Well Permit fees as set out in the fee schedule approved by the Town Council.

Sec. 56-43. Standards for Gas Well Drilling and Production.

- a) On-Site Requirements.
- 1) Abandoned Wells. All wells shall be abandoned in accordance with the rules of the Commission and pursuant to this Article.
 - 2) Blowout Prevention. In all cases, blowout prevention equipment shall be used on all Gas Wells being drilled, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout during gas operations as required by and in conformance with the requirements of the Commission and the recommendations of the American Petroleum Institute. The Operator must equip all Gas Wells with adequate blowout preventers, flow lines and valves commensurate with the working pressures involved as required by the Commission.
 - 3) Discharge. No Person shall place, deposit, discharge, cause or permit to be placed, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse, including wastewater or brine, from any Gas operation or the contents of any container used in connection with any Gas operation, in, into, or upon any Right-of-Way without permits from the appropriate Town.
 - 4) Drilling Notice. The Operator shall provide forty eight (48) hour notice to the Gas Inspector before the start of Drilling Operations.
 - 5) Drill Stem Testing. All open-hole formation or drill stem testing shall be done during daylight hours. Drill stem tests may be

conducted only if the well effluent during the test is produced through an adequate Gas separator to storage tanks and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.

- 6) Dust, Vibration, Odors. All Drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of Gas in urban areas. All equipment used shall be so constructed and operated so that, vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any Drilling or production site or from anything incident thereto. The site or structures thereon shall not be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.
- 7) Electric Lines. All electric lines to Drilling and production facilities shall be located underground.
- 8) Hazardous Material and Site Safety Plan. Prior to the commencement of any Gas production activities, Operator shall submit to the Gas Inspector this plan establishing written procedures to minimize any hazard resulting from drilling, completion or production of Gas Wells. Said plan shall use existing guidelines established by the Commission, TCEQ, Federal or State agencies and Town Fire Code. A copy of this plan shall be kept on site.
- 9) Equipment Painted. All production equipment on the site shall be properly painted and maintained at all times, including, but not limited to, pumping units, storage tanks, buildings and structures.
- 10) 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 fire department in accordance with the Town Fire Code. The reporting limits for hazardous materials release shall conform to the requirements of the Commission and not

exceed any State or Federal permitting limit. A copy of the hazardous materials release records required by TCEQ shall be forwarded to the Fire Chief on an annual basis.

- 11) Fire Prevention; Sources of Ignition. Firefighting apparatus and supplies as approved by the Fire Department and required by any applicable Federal, State, or Town Ordinance shall be provided by the Operator, at the Operator's cost, and shall be maintained on the Drilling site at all times during Drilling and production operations. The Operator shall be responsible for the maintenance and upkeep of such equipment. Each Gas Well shall be equipped with an automated valve that closes the Gas Well in the event of an abnormal change in operating pressure. All Gas Well heads shall contain an appropriately labeled emergency shut-off valve to the Gas Well distribution line.
- 12) Firefighter Training and Equipment. Each Operator shall be required, at the option of the Fire Chief, to provide training and instruction to the Fire Department regarding Gas Well safety and emergency management protocol. Each permit application for a Gas Well Pad Site permit or Gas Well Drilling permit shall include a fee to be used to cover the expenses incurred or anticipated for Firefighter training and equipment acquisition or replacement. The fees shall be set out in the fee schedule approved by the Town Council. All costs associated with responding to an incident at a Gas Well Site including supplies, materials, and/or personnel shall be reimbursed by the Operator to the responding agencies.
- 13) Fracing Operations. All formation fracture stimulation operations shall be conducted during Daytime hours unless the Operator has notified and obtained written permission in advance from the Gas Inspector or the Administrator for operations during Nighttime hours. The following requirements shall apply to all fracture stimulation operations performed on a Gas Well Pad Site:
 - a. At least forty eight (48) hours before operations are commenced, the Operator shall notify the Gas Inspector and post a sign at the entrance of the well site advising the public of the date the operations will commence;
 - b. Flow back Operations to recover fluids used during fracture stimulation shall be exempt from work hour restrictions;

- c. A watchman shall be required at all times during such operations; and
 - d. At no time shall the Gas Well be allowed to flow or vent directly to the atmosphere.
- 14) Fresh Water Wells. All water wells require a permit from the Town prior to drilling. It shall be unlawful to drill any Gas Well, the center of which, at the surface of the ground, is located within two hundred (200) feet of any existing fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.
 - a. The Operator of a Gas Well shall provide the Gas Inspector with a pre-drilling and Post-Drilling water analysis and flow rate from any existing fresh water well within five hundred (500) feet of the Drill Zone.
 - b. An Operator may drill a fresh water well, in compliance with State law and Town ordinances.
 - c. A copy of the Texas Water Development Board permit shall be provided to the Gas Inspector along with the geographic coordinates of every water well within five hundred (500) feet of the Drill Zone.
 - d. A copy of all plugging and abandonment reports filed with the State and/or transfer of ownership notice shall be provided to the Gas Inspector.
 - e. The Operator of a Gas Well shall provide the Gas Inspector with a Pre-Drilling and Post-Drilling water analysis from the fresh water well if the well is transferred to private or public use.
- 15) Gas Lift Compressor. Any on-site compressor used to lift Gas from the well to the Gas collection system shall be designed to comply with the noise requirements of this Article. Off-site compressor stations are prohibited.
- 16) Gas emission or burning restricted. No Person shall allow, cause or permit Gas to be vented into the atmosphere or to be burned by open flame. All wells must be Green Wells as

defined in this Article.

Exception:

- a. Notwithstanding anything to the contrary in this Article, Flaring may be allowed for up to five (5) consecutive days, provided that the flames are shielded from view from adjacent properties, provisions are made to comply with the noise limitations, and permission is granted in writing by the Gas Inspector.
- 17) Gas Processing On-site. No refining process or any process for the extraction of hydrocarbon products shall be performed at a drill site or operation site, except that a separator may be maintained for the separation of liquids from gas. A separator may serve more than one Gas Well, provided that all wells served by a separator are located on the same Gas Well Pad Site.
 - 18) Grass, Weeds, Trash. All drill and operation sites shall be kept clear of high grass, weeds, and combustible trash at all times.
 - 19) Lights. No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on Right-of-Ways, adjacent property or property in the general vicinity of the operation site. Unless approved otherwise in the Specific Use Permit, site lighting shall be shielded and directed downward and internally so as to avoid glare on streets and adjacent dwellings and buildings within three hundred (300) feet of the pad site. Lighting for all drilling and production operations shall comply with the lighting plan for the Gas Well Pad Site, which as a minimum, shall comply with the standards as set out in the Town's Ordinances.
 - 20) Muffling Exhaust. Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels, used in connection with the drilling of any Gas Well or for use on any production equipment shall not be discharged into the open air, unless it is equipped with an exhaust muffler or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and disruptive vibrations and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.

- 21) Water Pits. No fresh water pit may be placed in any Town recognized drainage way, FEMA floodplain or floodway. Construction of the fresh water pit must comply with all Town, State and Federal regulations. Fresh water fracking pits, not transferred to the surface owner, shall be closed and the site restored within one hundred twenty (120) days after completion of Drilling Operations have ceased, unless extended by the Gas Inspector or unless required as stipulated in the Operator's approved Site Plan for the Gas Well Pad Site as a permanent landscape feature.
- 22) Private Roads and Gas Well Pad Site. Prior to the commencement of any Drilling Operations, all private roads used for access to the Gas Well Pad Site and the Operation Site itself shall be at least twenty-four (24) feet wide, drain appropriately, have an overhead clearance of fourteen (14) feet and shall have an all-weather surface as approved by the Town as set out in the approved Specific Use Permit and the approved Gas Well Pad Site Permit. The Operator shall install truck shakers along the private access road to remove mud from vehicles prior to entering the paved section of the access road. Watering, wetting or other methods or materials must be used to control the dust on all roads adjacent to residential property, schools, parks or public property as required by the Town.
- 23) Saltwater Disposal Wells. Commercial Saltwater Disposal Wells are prohibited. Non-commercial Saltwater Disposal Wells that are ancillary to the Gas Wells located within an individual Gas Well Pad Site must be shown on the Site Plan when applying for a Specific Use Permit.
- 24) Signs.
 - a. A sign shall be immediately and prominently displayed at the gate on the temporary site fencing and the permanent perimeter wall as applicable. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the 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:
 - 1) Gas Well name and number;

- 2) Address as provided by the Town of Westlake.
 - 3) Name of Operator;
 - 4) The emergency 911 number; and
 - 5) Telephone numbers of two (2) persons responsible for the Gas Well, who may be contacted in case of emergency.
- b. Permanent weatherproof signs reading "DANGER NO SMOKING OR OPEN FLAME ALLOWED IN THIS AREA" "PELIGRO: NO FUMAR - NO INCIAR LLAMA EN ESTA AREA" shall be posted immediately upon completion of the Gas Well site fencing at the entrance of each Gas Well site and tank battery or in any other location approved or designated by the Gas Inspector. Sign lettering shall be four (4) inches in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the Fire Department and the Operator and the Gas Well lease designations required by the Commission.
- c. National Fire Prevention Association (NFPA) 704 diamond hazard identification signs are required on each tank and at the entrance to the site adjacent to the Operator's sign. A label must be located on each tank indicating exact chemicals that may be contained in the tank. Text shall be minimum six (6) inches in height, contrasting with the background color.
- 25) Storage of Equipment. On-site storage is prohibited on the operation site. No equipment shall be stored on the Drilling or production operation site, unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when Drilling or Gas Well servicing operations are being conducted on the site. 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 operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for drilling or

production operations on the site. The Fire Department shall be the entity that determines whether any equipment on the site shall constitute a fire hazard.

- 26) Storage Tanks. All tanks and permanent structures shall conform to the American Petroleum Institute specifications unless other specifications are approved by the Fire Chief. The top of the tanks shall be no higher than eight (8) feet above the terrain surrounding the tanks, but in no case shall tanks extend beyond or be visible above the screening wall. All storage tanks shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be of sufficient height to contain one and one-half (1 ½) times the contents of the largest tank in accordance with the Town's Fire Code, and buried at least one (1) foot. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tanks.
- a. Temporary flow back tanks shall be removed within ninety (90) days after completion of the Gas Wells at the Gas Well Pad Site unless written permission is obtained from the Gas Inspector to extend the time period for no more than thirty (30) days.
 - b. All tanks shall be set back pursuant to the standards of the Commission and the National Fire Protection Association, but in all cases, shall be at least fifty (50) feet from any public street, road, highway or future street, or right-of-way and one hundred (100') feet from a structure. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank. All safety valves shall be tested annually.
 - c. A floodplain development permit approved by the Floodplain Administrator shall be required to place storage tanks or separation facilities within an area of special flood hazard.
 - d. Tanks and Tank Battery Facilities shall be equipped with a lightning arrestor system.

- 27) Surface Casing. Surface casing shall be run and set in full

compliance with the applicable rules and regulations of the Commission.

- 28) Valves. Each Gas Well must have a shutoff valve to terminate the well's production. The Fire Department shall have twenty four (24) hour access to the Gas Well site and the shut-off valve in an emergency.
- 29) Waste Disposal. Unless otherwise directed by the Commission, all tanks used for storage shall conform to the following:
 - a. Operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet the current American Petroleum Institute standards. All tanks must have a vent line, flame arrester and pressure relief valve. All tanks must be enclosed by a fence applicable to the issued permit classification. No Tank Battery shall be located within three hundred (300) feet of any Protected Use.
 - b. A Closed Loop Mud System shall be used instead of lined reserve pits. No drilling fluid, mud, storage or reserve pits shall be located within the Town, except steel containers used in a closed loop mud system. All disposals must be in accordance with the rules of the Commission and any other appropriate Town, State or Federal agency.
 - c. Unless otherwise directed by the 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. Water stored in on-site tanks shall be removed as necessary.
 - d. 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 Article and any other applicable ordinance of the Town.
- 30) Watchman. The Operator must keep a watchman or security personnel on site during the Drilling or re-working of a Gas Well. A record shall be kept of all personnel entering and leaving the site and said record shall be available to the Town upon request.

- 31) Wellhead Status after Fracking. All wellheads waiting on completion, for a period greater than ten (10) days, shall be:
- a. Completed through the production casing flange with a metal plate or blind flange bolted across the head;
 - b. Surrounded with a six (6) feet tall chain link fence having a gate and lock;
 - c. The cellar shall be filled or closed; and
 - d. The Bradenhead shall be piped to the surface and open to the atmosphere or have an observable and adequate pressure gauge with operable test valve.
- 32) Work Hours for Site Development. No construction activities involving excavation of demolition, of alteration to, or repair work on any access road or Gas Well Pad Site, shall occur during nighttime hours or at any time on Sunday.
- 33) Noise.
- a. No Gas Well shall be Drilled, Re-Drilled or any equipment operated at any location within the Town in such a manner so as to create any noise which causes the exterior noise level when measured at the nearest Protected Use from the receiver's/receptor's property line or one hundred (100) feet from the nearest Protected Use structure (as measured to the closest exterior point of the building), whichever is closer to the receiver/receptor, that exceeds the Ambient Noise Level by more than five (5) decibels during Daytime hours and more than three (3) decibels during Nighttime hours. Fracking operations may not exceed the Ambient Noise Level by more than ten (10) decibels. Backflow operations may not exceed the Ambient Noise Level by more than five (5) decibels during nighttime hours. Noise measurement methods and specific limitations based on frequency ranges can be found in the Town of Westlake Noise Management Guidelines.
 - b. The Operator shall be responsible for establishing and reporting to the Town the pre-drilling Ambient Noise Level prior to the issuance of a Gas Well Permit. Once the Drilling is complete, the Operator shall be required to

establish a new Ambient Noise Level prior to the installation of any new noise generation equipment.

- c. Daytime hours adjustments to the noise standards as set forth above in subsection (a) of this section may be permitted, if requested in writing and approved by the Gas Inspector, in accordance with the following:

Permitted Increase (dba)	Duration of increase (minutes)*
5	15
10	5
15	1
20	less than 1

*Cumulative minutes during any one hour.

- d. All Work-Over Operations shall be restricted to Daytime Hours. Work-Over Operations shall mean work performed on a Gas Well after its completion in an effort to secure production where there has been none, restore production that has ceased, or increase production.
- e. Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the Gas Inspector may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and shall be subject to approval by the Town.
- f. The sound level meter or an instrument and the associated recording and analyzing equipment which will provide equivalent data used in conducting noise evaluations shall meet the American National Standard Institute's Standard for sound meters.
- g. During Nighttime operations for High Impact and Urban Gas Well Pad Sites, the operation of vehicle audible back-up alarms shall be prohibited or replaced with approved non-auditory signaling systems, such as spotters or flagmen. Deliveries of pipe, casing and heavy loads shall be limited to daytime hours, except for emergency situations. The derrick man and driller shall communicate by walkie-talkie or other non-disruptive means only when

the derrick man is in the derrick. Horns may not be used to signal for connection or to summon crew (except that a horn may be used for emergency purposes only). The Operator shall conduct onsite meetings to inform all personnel of Nighttime operations noise control requirements.

- 34) Gas Well Setbacks. It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:
- a. Outside the boundaries of the Drill Zone as shown on the approved SUP Site Plan for an approved Gas Well Pad Site.
 - b. Within twenty five (25) feet of any storage tank, or source of ignition;
 - c. Within one hundred (100) feet of any building, accessory to, but not necessary to the operation of the Gas Well; or
 - d. Within two hundred (200) feet of any fresh water well not drilled by the Operator as a specific source of water used for drilling or completion operations without the express written permission of the owner of the water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore. The distance requirement for fresh water wells is subject to the Commission regulations and any other State or Federal requirements. The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures.
- 36) Tank Batteries, Tanks, and Gas Well facilities shall be fully screened and located within the perimeter walls of a Gas Well Pad Site or Gas Well Production Site and at least three hundred (300) feet from any Protected Use for which a building permit has been issued on the date of the application for which a drilling permit is filed. The distance shall be calculated from the closest tank batteries, well facilities and/or equipment, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building.
- 37) Gas Well Completion and Inspection Permit; Tank and Tank Battery Permit. No Gas Well shall be placed into production without an inspection by the Gas Inspector to certify

compliance with all Specific Use Permit, Gas Well Pad Site Permit, and Gas Well Permit conditions. Fees for these permits, as well as their annual renewal, shall be paid as set by the Town Council.

- 38) Installation of Pipelines on, under or across Public Property. The Operator shall apply to the Town, and pay all applicable fees, for a license to place a pipeline on, over, under, along or across the Town Rights-of-Way, and other Town property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines. Operator shall:
- a. 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.
 - b. Furnish to the Gas Inspector a plat showing the location of such pipelines.
 - c. Construct such lines or cause same to be constructed out of new pipe.
 - d. Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed when operations for the Drilling of the Gas Well were first commenced. No Gas Well Permit shall be issued for any Gas Well to be drilled within any Right-of-Way and no Right-of-Way shall be blocked or encumbered or closed due to any exploration, Drilling or production operations unless prior consent is obtained from the Gas Inspector and Fire Department. Any consent shall be temporary in nature and state the number of hours and/or days that any Right-of-Way may be blocked, encumbered or closed.

Sec. 56-44. Insurance and Indemnification.

The Operator shall provide or cause to be provided the insurance described below for each Gas Well for which a Gas Well Permit is issued; such insurance to continue until the Gas Well is abandoned and the site restored. The Operator may provide the required coverage on a blanket basis for multiple Gas Wells. The Town Manager shall approve such coverage.

a) General requirements.

- 1) All insurance policies shall be endorsed to read "this policy will not be cancelled or non-renewed without a minimum 30 days advanced written notice to the Owner and the Town of Westlake except when this policy is being cancelled for nonpayment of premium, in which case ten (10) days advance written notice is required."
- 2) Liability policies shall be written by carriers licensed to do business in the State of Texas and with companies with A: VIII or better rating in accordance with the current Best Key Rating Guide.
- 3) Liability policies shall name as additional insured the Town of Westlake and its officials, agents and employees. Waivers of subrogation shall be provided in favor of all Indemnified Parties.
- 4) Certificates of insurance must be presented to the Town evidencing all coverages and endorsements required by this article, and the acceptance of a certificate without the required limits and/or coverages shall not be deemed a waiver of these requirements. Fees required for insurance policy review, as may be established by the Town Council shall be paid at the time of presentation of the initial insurance coverage certificates as well as annually at the time of certificate presentation proving insurance policy renewal in accordance with the policy limits set by this Article.
- 5) Claims made policies will not be accepted except for excess policies or unless otherwise provided by this Article.

b) Indemnification and express negligence provisions.

- 1) Each Gas Well Permit issued by the Town shall include the following language:

"Operator does hereby expressly release and discharge all claims, demands, actions, judgments, and executions which it ever had, or now have or may have, or which it's assigns may have, or claim to have, against the Town, and/or its, agents, officers, attorneys, servants, successors, assigns, sponsors,

volunteers, or employees, (the "Indemnified Parties") created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the Operator under a Gas Well Permit. The Operator shall fully defend, protect, indemnify, and hold harmless the Indemnified Parties from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the Indemnified Parties, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by Operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the Operator under a Gas Well Permit, The Operator agrees to indemnify and hold harmless the Indemnified Parties from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the Town, its elected and appointed officials, and/or its departments, officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the Town of Westlake occurring on the drill site or operation site in the course and scope of inspecting and permitting the Gas Wells including, but not limited to, claims and damages arising in whole or in part from the sole negligence of the Town of Westlake occurring on the drill site or operation site in the course and scope of inspecting and permitting the gas wells. It is understood and agreed that the indemnity provided for in this section is an indemnity extended by the operator to indemnify and protect the Indemnified Parties from the consequences of the negligence of the Indemnified Parties, whether that negligence is the sole or contributing cause of the resultant injury, death, and/or damage. Nothing provided herein shall be construed as waiving the Town of Westlake's immunity or any other defense.

c) Required insurance coverages.

1) Commercial general liability insurance.

- a. Coverage should be a minimum combined single limit of ten million dollars (\$10,000,000.00) per occurrence for bodily injury and property damage. This coverage must include premises, operations, blowout or explosion products, completed operations, blanket contractual

liability, underground property damage, broad form property damage, independent contractor's protective liability and personal injury.

- b. Environmental impairment (or seepage and pollution) shall be either included in the coverage or written as separate coverage. Such coverage shall not exclude damage to the lease site. If environmental impairment (or seepage and pollution) coverage is written on a claims made basis, the policy must provide that any retroactive date applicable precedes the effective date of the issuance of the permit. Coverage shall apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste material or other irritants, contaminants or pollutants. Coverage shall be a minimum combined single limit of one million dollars (\$1,000,000.00) per occurrence.
2. *Automobile liability insurance.* Minimum combined single limit of one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage. Such coverage shall include owned, non-owned, and hired vehicles.
3. *Worker's compensation insurance.* In addition to the minimum statutory requirements, coverage shall include employer's liability limits of at least five hundred thousand dollars (\$500,000.00) for each accident, one hundred thousand dollars (\$100,000.00) for each employee, and a five hundred thousand (\$500,000.00) policy limit for occupational disease, and the insurer agrees to waive rights of subrogation against the Town, its officials, agents, and employees for any work performed for the Town by the Operator.
4. *Excess (or umbrella) liability insurance.* Minimum limit of twenty million dollars (\$20,000,000.00) covering in excess of the preceding insurance policies.
5. *Control of well insurance.*
 - a. Minimum limit of five million dollars (\$5,000,000.00) per occurrence.
 - b. Policy shall cover the cost of controlling a Gas Well that is out of control, redrilling or restoration expenses, and

seepage and pollution damage. Damage to property in the Operator's care, custody, and control with a sub-limit of five hundred thousand (\$500,000.00) may be added.

Sec. 56-45. Bond or Irrevocable Letter of Credit.

- a) Prior to the issuance of a Gas Well Permit the Operator shall provide the Gas Inspector with a security instrument in the form of a bond or an irrevocable letter of credit as follows:
 - 1) **Bond.** A Bond shall be executed by a reliable bonding or insurance institution authorized to do business in Texas and acceptable to the Town. The Bond shall become effective on or before the date the Gas Well Permit is issued and shall remain in force and effect for at least a period of six (6) months after the expiration of the Gas Well Permit term or until the Gas Well is plugged and abandoned and the site is restored, whichever occurs first. The Operator shall be listed as principal and the instrument shall run to the Town, as obligee, and shall be conditioned that the Operator will comply with the terms and regulations of this Article and the Town. The original Bond shall be submitted to the Gas Inspector with a copy of the same provided to the Town Secretary.
 - 2) **Letter of Credit.** A Letter of Credit shall be issued by a reliable bank authorized to do business in Texas and shall become effective on or before the date the Gas Well Permit is issued. The Letter of Credit shall remain in force and effect for at least a period of six (6) months after the expiration of the Gas Well Permit term. If the Letter of Credit is for a time period less than the life of the Gas Well as required by this Article, 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 Article, 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 Town 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 Town may draw the entire face amount of the attached Letter of Credit to be held by the Town as security for Operator's performance of its obligations under this Article. The Town shall be authorized to draw upon such Letter of Credit to recover any fines or penalties

assessed under this Article. Evidence of the execution of a Letter of Credit shall be submitted to the Gas Inspector by submitting an original signed Letter of Credit from the banking institution, with a copy of the same provided to the Town Secretary.

- 3) The principal amount of any security instrument (Bond or Letter of Credit) shall be fifty thousand dollars (\$50,000) for any single Gas Well. If, after completion of a Gas Well, the Applicant/Operator, who initially posted a fifty thousand dollar (\$50,000) Bond or Letter of Credit, has complied with all of the provisions of this Article and whose Gas Well is in the producing stage and all Drilling Operations have ceased, may submit a written request to the Gas Inspector for approval to reduce the existing Bond or Letter of Credit to fifteen thousand dollars (\$15,000) for the remainder of the time the Gas Well produces without reworking. During reworking operations, the amount of the Bond or Letter of Credit shall be maintained at fifty thousand dollars (\$50,000). An Operator drilling or reworking between one (1) and five (5) Gas Wells at any given time, may elect to provide a blanket Bond or Letter of Credit, in the principal minimum amount of one hundred fifty thousand dollars (\$150,000). If the Operator drills or reworks more than five (5) wells at a time, the blanket Bond or Letter of Credit shall be increased in increments of fifty thousand dollars (\$50,000) per each additional Gas Well. Once the Gas Wells are in the producing stage and all Drilling Operations have ceased, the Operator may elect to submit a written request to the Gas Inspector for approval to reduce the existing Bond and provide a blanket Bond or Letter of Credit for the remainder of the time the Gas Well produces, without reworking, as follows:

<u>Number of Producing Gas Wells</u>	<u>Blanket Bond/Letter of Credit Amount Required</u>
Up to 75 Gas Wells	\$1,000,000
75 to 150 Gas Wells	\$2,000,000
More than 150 Gas Wells	\$5,000,000

If at any time after no less than a fifteen (15) day written notice to the Operator and a public hearing, the Town 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 of two hundred and fifty thousand dollars (\$250,000) per Gas Well.

- 4) Whenever the Gas Inspector finds that a default has occurred in the performance of any requirement or condition imposed by this Article, a written notice shall be given to the Operator. Such notice shall specify the work to be done, the estimated cost, and the period of time deemed by the Gas Inspector to be reasonably necessary for the completion of such 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 Town 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. The Town shall be authorized to immediately draw against any irrevocable Letter of Credit or Bond to recover such amount due from the Operator. Upon receipt of such monies, the Town may proceed by such mode as deemed convenient by the Town 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 well has not been properly abandoned under the regulations of the Commission, such additional money may be demanded from the Operator as is necessary to properly plug and abandon the Gas Well and restore the drill site in conformity with the regulations of this Article.
- 5) In the event the Operator does not cause the work to be performed and fails or refuses to pay over to the Town 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 Town against the applicable irrevocable Letter of Credit or Bond, the Town may proceed to obtain compliance and abate the default by way of legal action against the Operator.
- 6) When the Gas Well or Wells covered by said irrevocable Letters of Credit or Bond have been properly abandoned in conformity with all regulations of this Article, and in conformity with all regulations of the Commission and written notice to that effect has been received by the Town, 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.

Sec. 56-46. Gas Inspector.

- a) The Administrator shall designate the Gas Inspector(s) who shall enforce the provisions of this Article. The Inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this Article and its particular provisions. Failure of any person to comply with any such lawful order or directive shall constitute a violation of this Article.
- b) The Gas Inspector shall have the authority to enter and inspect any premises covered by the provisions of this Article to determine compliance with the provisions of this Article and all applicable laws, rules, regulations, standards, or directives of the State or Federal governments. Failure of any person to permit lawful access to the Gas Inspector or Fire Marshal shall constitute a violation of this Article.
- c) The Gas Inspector shall conduct inspections of all permitted Gas Wells in the Town to determine compliance with this Article and all regulations of the Commission. The Gas Inspector shall conduct periodic inspections at least once a year of all permitted Gas Wells in the Town to determine that the wells are operating in accordance within proper safety parameters as set out in this Article and all regulations of the Commission.
- d) The Gas Inspector shall have the authority to request and receive any records, including any records sent to the Commission, logs and reports relating to the status or condition of any permitted Gas Well related to the health, safety and operations of the Gas Well. Failure of any person to provide any such requested material shall be a violation of this Article.

Sec. 56-47. Operator's Agent.

Every Operator of any Gas Well shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this Article may be served in person or by registered or certified mail. Every Operator so designating such agent shall within ten (10) business days notify the Town Secretary in writing of any change in such agent or such mailing address unless operations within the Town are discontinued.

Sec. 56-48. Periodic Reports.

- a) The Operator shall notify the Town of any change to the following information within one (1) business day after the change occurs.
 - 1) The name, address, or phone number of the Operator; or
 - 2) The name, address, or twenty four (24) hour phone number of the person(s) with supervisory authority over Drilling, production, or operations activities.
- b) The Operator shall notify the Town of any change to the following information within ten (10) business day after the change occurs.
 - 1) The name, address, or phone number of the person designated to receive notices from the Town, which person must be a resident of Texas that can be served in person or by registered or certified mail; or
 - 2) The Operator's Emergency Action Response Plan including drive-to maps from Rights-of-Way to each area covered by the applicable Gas Well Permit and associated Site Plan.
- c) The Operator shall provide a copy of any incident reports or written complaints submitted to the Commission or any other State or Federal agency within fifteen (15) days after the Operator has notice of the existence of such reports or complaints.
- d) Beginning on December 31st after each Gas Well is completed, and continuing on each December 31st thereafter until the Operator notifies the Town that the Gas Well has been abandoned and the site restored, the Operator shall prepare a written report to the Town identifying any changes to the information that was included in the application for the applicable Gas Well permit that have not been previously reported to the Town.

Sec. 56-49. Transfer of Gas Well Permits.

- a) A Gas Well Permit may be transferred upon written request by the Operator with the consent of the Town:
 - 1) If the transferee agrees to be bound by the terms and conditions

of the current Gas Well Permit and the Road Repair Agreement;

- 2) If all information previously provided to the Town as part of the current Gas Well permit application is updated to reflect any changes; and
- 3) If the transferee provides the insurance and security required by this Article, and all permits, licenses, and fees due at the time of transference, including a Gas Well transference review fee as established by the Town Council. The insurance and security provided by the transferor shall be released if a copy of the written transfer is provided to the Town. The transfer shall not relieve the transferor from any liability to the Town arising out of any activities conducted prior to the transfer.

Sec. 56-50. Cleanup and Maintenance.

- a) Cleanup after well servicing. After the Gas Well has been completed or plugged and abandoned, the Operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within sixty (60) days.
- b) Clean-up after spills, leaks and malfunctions. After any spill, leak or malfunction, the Operator shall remove or cause to be removed to the satisfaction of the Town Fire Chief and the Gas Inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. If the owner fails to begin site clean-up immediately, the Gas Inspector or Fire Chief may then employ any cleanup expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the Gas Inspector deems necessary to clean-up such spill, leak or malfunction.
- c) Free from debris. The Right-of-Way entrance and property on which a Gas Well site is located shall at all times be kept free of mud, debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other waste material within a radius of one hundred (100) feet around any separators, tanks and producing wells.
- d) Painting. All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, secondary containment and buildings or structures. When requiring painting of

such facilities, the Gas Inspector 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. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand and unobtrusive shades of black or dark green.

- e) Blowouts. In the event of the loss of control of any Gas Well, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this Article and shall notify the Gas Inspector as soon as practicable. The Gas Inspector shall certify in writing, briefly describing the same, to the Town Manager. If the Gas Inspector, in his opinion, believes that danger to persons and property exists because of such loss of well control and that the Operator is not taking or is unable to take all reasonable and necessary steps to regain control of such Gas Well, the Gas Inspector may then employ any Gas Well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the Gas Inspector deems necessary to regain control of such Gas Well. The Town shall then have a valid lien against the interest in the Gas Well of all working interest owners to secure payment of any expenditure made by the Town pursuant to such action of the Gas Inspector in gaining control of said Gas Well.

Sec. 56-51. Plugged and Abandoned Wells.

- a) Surface requirements for plugged and abandoned Gas Wells. Whenever abandonment occurs pursuant to the requirements of the Commission, the Operator so abandoning shall be responsible for the restoration of the Gas Well site to its original condition as nearly as practicable, in conformity with the regulations of this Ordinance.
- b) Abandonment shall be approved by the Gas Inspector after payment of an abandonment inspection fee and after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the Gas Inspector:
 - 1) The derrick and all appurtenant equipment thereto shall be removed from Drill Site;
 - 2) All Tanks, towers, and other surface installations shall be removed from the Drill Site;

- 3) All concrete foundations, piping, wood, guy anchors and other foreign materials, regardless of depth, except surface casing, shall be removed from the Drill Site, unless otherwise directed by the Commission;
 - 4) All holes and depressions shall be filled with clean, compactable soil;
 - 5) All waste, refuse or waste material shall be removed from the Drill Site; and
 - 6) During abandonment, Operator shall comply with all applicable sections in this Article.
- c) Abandoned Gas Well requirement. The Operator shall furnish the following to the Gas Inspector:
- 1) A copy of the W-3A Notice of intention to Plug & Abandon and W-3 Plugging Record forms on the same date these forms are submitted to the Commission; and
 - 2) Prior forty eight (48) hour notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated;
 - 3) All Gas Wells shall be abandoned in accordance with the rules of the Commission; however, all Gas Well casings and cellars shall be cut and removed to a depth of at least three (3) feet below the surface. A permanent abandonment marker pipe, with the Gas Well identity and location permanently inscribed, shall be welded to the casing and shall be at least four (4) inches in diameter with a length of four (4) feet visible above the ground level.
 - 4) Abandonment requirements prior to new construction. All abandoned Gas Wells or Drill Sites shall meet the most current abandonment requirements of the Commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned Gas Well.

Sec. 56-52. Technical Advisor.

The Town may from time to time employ a Technical Advisor or advisors who are experienced and educated in the Gas industry or the law as it pertains to Gas matters. The function of such advisor(s) shall be to advise, counsel or represent the Town on such matters relating to Gas operations within the Town as the Town may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the Town. In the event such Technical Advisor(s) is employed for the purpose of advising, counseling or representing the Town relative to an Operator's unique and particular set of circumstances, case or request relating to this Article, then the cost for such services plus an administrative processing fee for such Technical Advisor(s) shall be assessed and paid for by such Operator in addition to any other fees or charges assessed pursuant to this Ordinance. Prior to the employment of a Technical Advisor, the Town shall inform the Operator of the intended scope of work and the estimated costs and expenses. The employment of a Technical Advisor shall be approved by the Town Manager.

Sec. 56-53. Remedies of the Town.

- a) If an Operator (or its officers, employees, agents, contractors, subcontractors or representatives) fails to comply with any requirement of a Gas Well Permit (including any requirement incorporated by reference as part of the permit), the Gas inspector shall give written notice to the Operator specifying the nature of the alleged failure and giving the Operator a reasonable time to cure, taking into consideration the nature and extent of the alleged failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than thirty (30) days unless the alleged failure presents a risk of imminent destruction of property or injury to persons or unless the alleged failure involves the Operator's failure to provide periodic reports. The Gas Inspector may issue a Stop Work Order under the Fire Code.
- b) If the Operator does not cure the alleged failure within the time specified by the Gas Inspector, the Gas Inspector may notify the Commission and request that the Commission take appropriate action (with a copy of such notice provided to the Operator), and the Town may pursue any other remedy available.

- c) If the Operator does not cure the alleged failure within the time specified by the Gas inspector, the Gas Inspector may upon recommendation of the Town Manager:
 - 1) Recommend to the Town Council that the Gas Well Permit be suspended until the alleged failure is cured; or
 - 2) If the Operator fails to initiate and diligently pursue a cure, recommend to the Town Council that the Gas Well Permit be revoked.
- d) The decision of the Gas Inspector to recommend suspension or revocation of a Gas Well Permit shall be provided to the Operator in writing at least ten (10) days before any action by the Town Council unless the alleged failure presents a risk of imminent destruction of property or injury to persons.
- e) If a Gas Well Permit is revoked, the Operator may submit an application for a new Gas Well Permit for the same well.

Sec. 56-54. Amended Well Permits.

- a) Amendments to Gas Well Permits may be approved by the Gas Inspector provided the Gas Well will be in strict conformance with the Gas Well Pad Site permit as approved and all applicable fees established by the Town Council by resolution have been paid.

Sec. 56-55. Re-working of Well; Notice.

- a) Any person who intends to re-work a Gas Well using a drilling rig or to fracture/stimulate a well after initial completion shall give written notice to the Town at least twenty (20) days before the activities begin. The notice shall identify where the activities will be conducted and shall describe the activities in reasonable detail, including but not limited to, the duration of the activities and the time of day they will be conducted. The notice must also provide the address and twenty-four (24) hour phone number of the person conducting the activities. The person conducting the activities shall post a sign, in English and Spanish, on the property giving the public notice of the activities, including the name, address, and twenty-four (24) hour phone number

of the person conducting the activities. No Gas Well shall be Re-worked without the approval of the Inspector. If the Gas Inspector determines that an inspection is required, the actual cost of the inspection shall be assessed against the respective Operator. All Gas Well Re-working shall require a Gas Well Re-working permit, the fee for which shall be established by the Town Council.

Sec. 56-56. Commission Permits; TCEQ.

- a) Any Person who proposes the Drilling and production of Gas on a tract of land located within the Town shall provide copies of all permits filed with the Commission at the time of the application for the Gas Well Permit.
- b) Prior to approval of the Gas Well Permit, the Operator must submit the following:
 - 1) Commission W-1 (Permit). A copy of the approved W-1 issued by the Commission.
 - 2) Commission P-12 (Pooling Information). A copy of the P-12 filed by the Operator, if any part of the Gas Development Site will contain pooled or unitized leases, reflecting the unit participants and property boundaries.
 - 3) A copy of the determination by the TCEQ of the depth of usable quality ground water.

ARTICLE III. OIL AND GAS PIPELINE STANDARDS

Sec. 56-57. Purpose.

It is hereby declared to be the purpose of this Article to establish reasonable and uniform limitations, safeguards, and regulations for present and future operations related to transporting Gas and other substances produced in association with Gas, within the Town to protect the health, safety and general welfare of the public; minimize the potential impact to property and persons; protect the quality of the environment; and encourage the safe and orderly transport of Gas resources.

Sec. 56-58. Definitions.

The words and phrases used in this Article are specifically defined in SECTION 56-32 of Article II. All technical industry words or phrases related to the transportation of Gas, and other substances produced in association with Gas and other hydrocarbons not specifically defined shall have meanings customarily attributable thereto by prudent Operators in the Gas industry.

Sec. 56-59. General Requirements and Minimum Design Standards.

- a) A Pipeline Permit is required as follows:
 - 1) It shall be unlawful for any Person to commence to construct, install, operate or reconstruct a Pipeline or any section of a Pipeline or to operate any Pipeline or to assist in the construction, installation, operation or reconstruction of a Pipeline if a lawful Pipeline Permit and/or license has not been first obtained.
 - 2) Any applications to construct, lay, rework, wrap or otherwise lower or replace existing Pipelines or install monitoring or recovery Gas Wells shall be submitted to the Town in a form prescribed by the Town.
 - 3) Each application for a Pipeline Permit and/or license shall be accompanied by five (5) paper sets and one (1) electronic set of plans showing the dimensions and locations of the Pipelines and related items or facilities within the subject Right-of-Way or easement, as well as all proposed lift stations, pumps or other service structures related to such Pipeline and the location, type and size of all existing utilities, drainage, and Right-of-Way. The plans must additionally show the elevation and location of all known public utilities within fifteen feet (15') of the centerline of the proposed Pipeline.
 - 4) Within thirty (30) days after the date of filing of said application and plans, the Town shall send notice to the applicant as to whether the application will be accepted for processing and the total charge due. If the application is rejected, reasons for rejection of the application shall be provided in writing.

- 5) No Pipeline Permit may be issued unless and until a Specific Use Permit is approved by the Town Council for the Gas Well or Gas Wells within the Town intended to be served by the Pipeline.
- 6) No Pipeline for the transportation of Gas from Gas Wells to be drilled shall be constructed or laid except on Town approved Rights-of-Way or easements owned by the Owners or Operators of Gas Wells or third party Pipeline companies, or upon designated drilling tracts and upon Rights-of-Way or easements necessary to connect future Gas Wells to present lines.
- 7) In order to enable the holder of each Pipeline permit and/or license to move Gas or other products to or from the location of a Gas Well, the holder of each Pipeline Permit shall apply to the Town for an easement on, over, under, along or across the Town streets, sidewalks, alleys and other Town property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing Pipelines so long as production or operations may be continued under any Pipeline Permit issued pursuant to this Article; provided, however, such permittee shall:
 - a. Not interfere with or damage existing utilities including but not limited to: water, sewer or gas lines, storm drains, electric lines or the facilities of public utilities located on, under or across the course of such Right-of-Way.
 - b. Furnish to the Inspector a Site Plan, showing the location of such Pipelines for the transport of Gas. Said Site Plan shall conform to the Town's standards for Site Plans, contained in the Zoning Ordinance, as amended.
 - c. Construct such lines or cause same to be constructed out of new pipe.
 - d. Grade, level and restore such property to the same surface condition, as nearly practicable, as existed before operations were first commenced.
- 8) Pipeline trenches shall be backfilled and compacted to ninety five percent (95%) standard density proctor in eight inch (8") lifts and Pipelines shall be constructed so as to maintain a minimum depth of eight feet (8') below the finished grade except in Rights-of-Way, where minimum cover to the top of the pipe shall be at least eight feet (8') below the bottom of any adjacent

roadside ditch. Rights-of-Way shall not be crossed by open cut. During the backfill of any Pipeline excavations, Buried Pipeline warning tape shall be buried one foot (1') above any such Pipeline to warn future excavators of the presence of a buried Pipeline.

- 9) In all cases in which one or more residential lots in a proposed subdivision are crossed, or come by or within one hundred feet (100') of any existing Gas Pipeline or Pipeline easement, the subdivider shall, prior to and as a condition of Town approval of the subdivision, execute the following waiver and hold harmless agreement, which shall be duly acknowledged in the manner provided by law, and which shall thereafter be recorded in the appropriate deed or other permanent county records:
 - a. "(Subdivider Name), by and through its duly undersigned and authorized officer, does hereby state that it fully realizes that it is applying for a permit from the Town of Westlake to build within one hundred feet (100') of an existing Gas Pipeline or Pipeline easement, and that the Town of Westlake considers building near such Pipeline or Pipeline easement to have certain possible inherent dangers, including, but not limited to, explosion and release of noxious, toxic and flammable substances. For the aforementioned reasons, (Subdivider Name) hereby releases, indemnifies and agrees to forever hold harmless the Town of Westlake, Texas, its officers, officials, employees, successors and assigns from all liability in any way arising from the building, use or habitation of land or a structure described in the said Permit".
- 10) In all cases in which one or more residential lots in a proposed subdivision are crossed or come by or come within one hundred feet (100') of any existing Gas Pipeline or Pipeline easement, the subdivision shall provide a note on the face of the development plan and record plat stating that the subdivision is crossed or is located within one hundred feet (100') of an existing Gas Pipeline.
- 11) Construction, repair and/or maintenance of all Pipelines, gathering lines, and production lines shall meet or exceed the minimum criteria established by the statutory or regulatory requirements of the State and Federal governments for Gas Pipelines.

- 12) Pipelines within the Town limits shall be constructed in accordance with this Article and shall be designed and constructed to the latest standards mandated by the Federal government and Commission for Pipelines operating within a Class 3 location in accordance with 49 CFR 192.111, and or other Federal or State laws.
- 13) Pipelines subject to this Division shall be constructed with an automated pressure monitoring system that detects leaks and shuts off any line or any section of line that develops a leak. In lieu of such system, the Pipeline Operator may have twenty four (24) hour pressure monitoring of the Pipeline system which provides monitoring of the pipeline within the Town. Any monitoring system(s) shall be keyed to or required to notify the Town's emergency response providers in order to provide them with immediate notice of any leak.
- 14) Construction of the Pipeline must commence within six (6) months of approval by the Town or otherwise the Pipeline Permit expires. A one (1) year extension of time may be granted if existing conditions are the same, as determined by the Director of Planning and Development Services. Once construction has commenced, the Pipeline Permit shall continue:
 - a. Until the Pipeline covered by the Pipeline Permit is complete and the site restored, or
 - b. One (1) year has elapsed since the approval date of the pipeline permit, whichever occurs first.
- 15) The Administrator may require that sections of proposed Pipeline be constructed at deeper depths based upon future Town infrastructure needs. The Administrator may also require that a Pipeline be relocated should it conflict with the proposed alignment and depth of a gravity dependent utility.

Sec. 56-60. New Pipeline Permit/License Application.

- a) At least forty five (45) days prior to the scheduled commencement of the construction of a new Pipeline, the Pipeline Owner or Operator shall submit an application and pay a fee, as shown in the approved fee schedule, for a Pipeline Permit and/or license to the Town pursuant

to its intention to construct the Pipeline. A Pipeline Permit shall be required for any new pipeline constructed in the Town. A license shall be required for any Pipeline proposed to cross a Right-of-Way in the Town. All Pipeline Permits and licenses shall be subject to annual review and renewal fees. The Owner and/or Operator shall submit the following information in the application for a Pipeline Permit and/or license:

- 1) The name, business addresses and telephone numbers of the Pipeline Owner or Operator.
- 2) The names, titles and telephone numbers of the following:
 - a. The person submitting the application and petition for the Pipeline construction;
 - b. The person designated as the principal contact for the submittal;
 - c. The person designated as the twenty four (24) hour emergency contact; and
 - d. The person or firm who will operate the Pipeline.
- 3) A map showing the origin point and the destination of the segment of the Pipeline to be constructed as well as the location of all Habitable Structures located within five hundred (500') feet of the Pipeline route.
- 4) A text description of the general location of the planned Pipeline.
- 5) A description of the substance to be transported through the Pipeline.
- 6) A copy of the substance material safety data sheet (MSDS).
- 7) The maximum allowable operating pressure on the Pipeline, along with the Specified Minimum Yield Strength (SMYS) of the pipe, its pressure class, and design calculations in accordance with 49 CFR 192.105, assuming a Class 3 or better location.
- 8) The normal operating pressure range of the Pipeline, not to exceed the maximum allowable operating pressure as designated above.

- 9) Engineering plans, drawings and/or maps with summarized specifications showing the horizontal Pipeline location, Pipeline covering depths, and location of shutoff valves (the location of shutoff valves must be known in order for emergency responders to clear area for access valves.) To the extent that information can be obtained, drawings shall show the location of other pipelines and utilities that will be crossed or paralleled within fifteen (15') feet of the proposed pipeline right-of-way.
- 10) A description of the consideration given to matters of public safety and the avoidance, as far as practicable, of existing inhabited structures and congregated areas.
- 11) Detailed cross section drawings for all Right-of-Way.
- 12) Methods to be used to prevent both internal and external corrosion.
- 13) A binder or certificates of all bonds and insurance as required under this Division.
- 14) All application materials required pursuant to the Town's Tree Preservation Ordinance, as it may be amended, including a tree survey measured from the outer edge of any improvements, construction areas, development, equipment, materials, temporary roads, access easements, and/or built structures, extending twenty five (25) feet, without regard to intervening structures or objects.
- 15) A proposed alignment strip map showing name and address of all affected property owners.
- 16) If the application for a Pipeline Permit and/or license is approved and a permit and/or license is issued, the Pipeline Owner or Operator shall at all times be required to maintain a fund with the Town containing a minimum running balance of fifteen thousand dollars (\$15,000.00) for each permit application approved. The funds shall be maintained by the Town in a separate non-interest bearing account from which the Town shall reimburse itself for the administrative expenses, consulting fees, contracting fees or the funding of Inspector position(s). The Town shall invoice and notify the Pipeline Owner or Operator, in writing, of any deduction from the application fund, and, within fifteen (15) days of receipt thereof, the Pipeline Owner or Operator shall pay to the Town, for deposit into the application

fund, the amount necessary to return the balance to fifteen thousand dollars (\$15,000.00). The Town shall return the remaining account balance to the applicant or the applicant's approved assign if the Pipeline subject to the Pipeline Permit and/or license is disconnected from all sources or supplies of gas, hazardous liquids and chemicals, and if capped or sealed at the ends and/or removed in accordance with the provisions of this Article. No Pipeline Permit and/or license shall be issued if the proposed activities are not in conformance with this Article and all other applicable Town ordinances, State and Federal law.

Sec. 56-61. Permit and/or License Approval.

- a) The applicant shall submit an application as described in this Article. Any application submitted that is determined to be administratively incomplete shall be returned to the applicant within ten (10) business days of the submittal date along with a letter documenting the deficiencies of the application, if any.
- b) After the submission of an administratively complete application, an administrative conference may be conducted to seek resolution of any substantive, non-resolvable technical issues. The conference shall be conducted with the Pipeline Review Committee., and, if necessary, the Town's Technical Advisor. The costs associated with the Technical Advisor shall be borne by the applicant. A quorum of at least three (3) members must be present to conduct a conference with at least one (1) of the members present at the conference having emergency management expertise. Any decision by the Pipeline Review Committee is final.
- c) From time to time the Town may need to obtain an independent study or analysis of an application or petition to construct a new Pipeline. The Town, upon approval by the Town Manager and after recommendation by the Pipeline Review Committee, shall engage duly qualified independent consultant(s) or contractor(s) to conduct such special studies or analyses as required to fully evaluate and act upon an application for a new Pipeline. The actual cost for said consultant or contractor, including the cost of any inspections deemed necessary by the Pipeline Review Committee, all administrative processing fees, or fees otherwise required by this Article, shall be billed directly to the Pipeline Owner or Operator's fund balance established pursuant to this Article.

- d) The Pipeline Owner or Operator shall give notice forty eight (48) hours prior to the commencement of Pipeline construction to all residents and business establishments that are located within five hundred (500') feet of the proposed centerline of the Pipeline.
- e) Upon completion of Pipeline construction, the Pipeline Owner or Operator shall provide the Town with as-built or record drawings of the Pipelines within sixty (60) calendar days. Accuracy of the record drawings shall meet a survey level of one (1') foot to fifty thousand (50,000') feet). The scale of the record drawings shall be a minimum of 1" = 40'. The drawings shall also be supplied in as DFF digital file format with the location tied to one (1) nearby GPS (global positioning system), Town monument. If the new Pipeline length exceeds one thousand (1,000') feet within the Town, the Pipeline shall be tied to at least two (2) GPS Town monuments.
- f) Any change in service of a Pipeline not previously addressed by this Article to gas, hazardous liquid or chemical service must be reviewed in accordance with the new Pipeline review procedure outlined herein, as if it were new Pipeline construction.
- g) A preconstruction conference with the Pipeline Review Committee shall be required prior to the commencement of pipeline construction.

Sec. 56-62. Public Education.

- a) Each Pipeline Owner or Operator shall maintain a public education program consistent with the Natural Gas Pipeline Safety Act of 1968 and 49 CFR 192.614, "Damage Prevention Program," 49 CFR 192.615, "Emergency Plans," the Hazardous Liquids Safety Act of 1979, and 49 CFR 195.408, "Communications," 49 CFR 195.440, "Public Awareness," and the Community Right-to-Know Act, 40 CFR Parts 350-374: that is communicated to Protected Uses establishments within one thousand (1,000') feet of the centerline of a pipeline.
- b) Pipeline information communicated pursuant to this section shall contain the following subjects:
 - 1) Pipeline location;
 - 2) Material transported within the Pipeline;
 - 3) Pipeline markers;

- 4) How to recognize a Pipeline;
 - 5) How to report a Pipeline emergency;
 - 6) Contact information regarding underground utility locations;
 - 7) Additional requirements for excavations near a home or business; and
 - 8) Response needs during a pipeline emergency, including instructions for sheltering in the event of an emergency.
 - 9) And any other information required by the Federal or State government.
- c) Public education information shall be communicated at least annually in both English and Spanish.
- d) The Town shall notify all property owners within one thousand (1,000') feet of the Pipeline or proposed Pipeline, in writing, by U.S. regular mail, of the proposed construction date of the pipeline. The actual cost of said notice shall be billed directly to the pipeline Owner or Operator's fund balance established pursuant this Article.

Sec. 56-63. Pipeline Information Reporting Requirements.

- a) Each Pipeline Owner or Operator shall provide to the Inspector, the Fire Marshal, and the Director of Public Safety the names, mailing addresses and telephone numbers of at least two (2) primary persons, officers or contacts available on a twenty four (24) hour basis and at least two (2) alternative persons, officers or contacts to be reached in the event that the primary contacts are unavailable who:
- 1) Can initiate appropriate actions to respond to an emergency;
 - 2) Have access to information on the location of the closest shutoff valve to any specific point in the Town; and
 - 3) Can furnish the common name of the material then being carried by the pipeline.

- b) Any change in the above information must be provided to the Town by contacting the Inspector, Fire Marshall and Director of Public Safety prior to such change.
- c) Every Owner or Operator of a Pipeline subject to this Article shall be required to present to the Town a safety report and file with the Town an annual verified safety report in letter form on or before June 30 of each year to cover a reporting period of June 1 through May 31. Said written safety report shall contain the following information and shall be presented to the Inspector:
 - 1) A statement that the Pipeline has no outstanding safety violations as determined in an inspection or audit by the Commission or the Federal government or State with regard to any Pipeline operating within the Town. Alternatively, if there are any safety violations as determined by the Commission or the Federal government or State that have not been corrected, these shall be described to the Town with a specific action plan to correct the safety violations. Said action plan shall include a timeline for corrective action and the Person responsible for each action.
 - 2) Evidence that the Pipeline Owner or Operator has current liability insurance covering each respective Pipeline in the minimum amount of five million dollars (\$5,000,000.00). Insurance carriers must be licensed to conduct business in the State and possess at least an "A" rating by the A.M. Best Company.
 - 3) A statement that the Pipeline information specified in this Article is correct. In the event that the required information on file with the Town is no longer correct, updated or corrected information shall be submitted within five (5) calendar days of the change and the updated information shall be submitted with the annual safety report.
 - 4) Owners or Operators of any Unregulated Pipeline who have no reporting responsibility to the Commission or Federal government shall additionally provide the following pertaining to the preceding reporting period of June 1 through May 31:
 - a. Copies of internal reports of responses to Pipeline emergencies, as pipeline emergency is defined in this Article;

- b. Current operations and maintenance logs of all Pipelines in the Town; and
 - c. Current emergency action plan.
- 5) A log of all the maintenance and monitoring activities conducted on all Pipelines subject to this Article for the reporting period shall be made available upon request by the Town.
- 6) The Owner or Operator shall submit an annual safety report; along with the safety report review fee established by the Town Council, with respect to each Pipeline subject to this Article or any other ordinances of the Town. The safety report and verification shall be executed by an officer or a person who is authorized to sign such safety report letter and make verification. The prescribed form of verification on the safety report letter shall read:

Verification

I, NAME, TITLE, of OWNER/OPERATOR, am authorized to make and have made the foregoing annual safety report letter to the Town for Pipelines. Any attachments made to this letter are true and correct copies of originals and the information provided in this letter is true and correct to the best of my knowledge and is information based on the standard of inquiry and investigation as would be made by a reasonably prudent pipeline Owner or Operator within the Town of Westlake. Signature of Officer or Person Authorized to Sign Letter STATE OF TEXAS, COUNTY OF [Place Where Safety Letter is Prepared] § The foregoing annual safety report letter was sworn to and subscribed before me by (signatory of letter) on this ____ day of _____, 20____ Signed: Notary Public for the State of Texas

Printed Name: _____

My Commission Expires: _____

- 7) The actual administrative costs incurred by the Town in reviewing the annual safety letter shall be billed directly to the Pipeline Owner or Operator's fund balance established pursuant to this Article.

- 8) A copy of all initial or follow-up reports provided to the Federal Government, State or the Commission on unsafe Pipeline conditions, Pipeline emergencies or pipeline incidents within the Town must be filed concurrently with the Town. In addition, any initial or follow-up reports filed with the Federal government, State or Commission pertaining to pipeline releases within the Town must be filed concurrently with the Town.
- 9) Upon written request, the Pipeline Owner or Operator shall make available, during normal business hours and at the Pipeline Owner or Operator's local office, documents for review that are required for submittal to or to be maintained on file for the Federal government, State or Commission such as:
 - a. Operations and maintenance;
 - b. Employee training;
 - c. Annual inspection;
 - d. Repair records;
 - e. Operating records; and
 - f. Insurance.
- 10) In the case of Unregulated Pipelines, the Town may request any such additional information that the Town deems necessary, in the best interests of the Town, and necessary to protect the public health, safety and general welfare.

Sec. 56-64. Pipeline Markers.

- a) Pipeline Owners or Operators shall place and maintain permanent line markers as close as practical over every Pipeline at each crossing of a Right-of-way, utility easement or railroad. Markers shall also be maintained along each Pipeline that is located above ground in an area accessible to the view of the public. The markers shall be of permanent type construction and contain labeling identifying the:
 - 1) Pipeline Owner or Operator;
 - 2) Twenty four (24) hour contact telephone number; and

- 3) A general description of the product transported in the Pipeline; i.e., Gas.
- b) No person shall tamper with, deface, damage or remove any Pipeline marker, except the pipeline Owner or Operator.
- c) Upon specific reasonable request of the Owner of a real property on which a Protected Use is located and through which a Pipeline traverses, the Pipeline Owner or Operator shall install temporary Pipeline markers or flagging to reduce the possibility of Pipeline damage or interference, in accordance with this Article.
- d) The material, design, color, size and content of each Pipeline marker shall be subject to Town Council approval prior to installation.

Sec. 56-65. One Call System.

- a) Pipeline Owners or Operators that transport Gas, in the Town shall be a member in good standing with the One Call System or other approved excavation monitoring system as required by State law. Pipeline Owners or Operators of any Pipeline that transport Gas shall contract for service with the selected underground utility coordinating system for a minimum of five (5) years unless there is an agreement to change to an alternate system between the Town and the Pipeline Owners or Operators. Said services shall be maintained without interruption for the life of the Pipeline permit. The selected underground utility coordinating system may be different than the one used by the Town for other underground utility services.
- b) Prior to beginning any excavation, trenching or digging using powered equipment or hand tools that may damage a Pipeline, any Person within the Town shall be required to contact the One Call System and any other appropriate underground utility coordinating systems and determine if there are any Pipelines or public utilities in the vicinity of the proposed activities.
- c) If physical contact is made with a Pipeline during any excavation, trenching or digging, the Pipeline company must be notified by the Person making the physical contact with the Pipeline for any necessary Pipeline inspection or repair.

Sec. 56-66. Inactive and Idled Pipelines.

a) Inactive Pipelines

- 1) All reporting records specified in this Article shall be maintained and kept current on Inactive Pipelines. An application to place a Pipeline into inactive status must be made to the Town and permit issues, with the permit fee paid, prior to placing the pipeline into inactive status.
- 2) Inactive Pipelines shall be purged of Gas, hazardous liquids, and chemicals, and physically isolated if such action does not adversely affect the Pipeline Owner or Operator's right-of-way easement and does not prevent the Pipeline Owner or Operator from maintaining the physical integrity of the Pipeline. These Pipelines shall be maintained to prevent deterioration.
- 3) The means used to physically isolate, if such action is taken, the Inactive Pipeline shall be included in the information retained on file with the Town for reporting as specified in this Article.

a. Idled Pipelines

1. An entry shall be made to the required reporting records, as required in this Article, that the Pipeline has been idled. An application to place a Pipeline into idled status must be made to the Town and permit issued, with the permit fee paid, prior to placing the Pipeline into idled status.
2. Idled Pipelines shall be purged, disconnected from all sources or supplies of Gas, hazardous liquids and chemicals, and capped or sealed at the ends.
3. Reactivation of Idled Pipelines shall require notification of the Town pursuant to the standards and requirements specified in this Article. Reactivation shall require pressure testing for integrity and compliance with the Commission, State or Federal requirements.

Sec. 56-67. Emergency Response Plans and Emergency Incident Reporting.

- a) Each Pipeline Owner or Operator shall maintain written procedures to minimize the hazards resulting from an emergency. These procedures shall at a minimum provide for:
 - 1) Prompt and effective response to emergencies:
 - a. Leaks or releases that can impact public health, safety or welfare;
 - b. Fire or explosions at or in the vicinity of a Pipeline or Pipeline easement; or
 - c. Natural disasters;
 - 2) Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency;
 - 3) The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency;
 - 4) Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment;
 - 5) Emergency shut down and pressure reduction of a Pipeline;
 - 6) The safe restoration of service following an emergency or incident;
 - 7) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.
 - a. Each Pipeline Owner or Operator shall meet annually with the Inspector and Fire Marshal to review emergency response plans. These reviews shall be in accord with Federal, State and Commission requirements and the Owner or Operator shall:
 1. Furnish or update a copy of the emergency response plan described in this Article;
 2. Review the responsibilities of each governmental organization in response to an emergency or incident;

3. Review the capabilities of the Pipeline Owner or Operator to respond to an emergency or incident;
4. Identify the types of emergencies or incidents that will result in or require contacting the Town; and
5. Plan mutual activities that the Town and the Pipeline Owner or Operator can engage in to minimize risks associated with Pipeline operation;
6. At this meeting, the Town may provide the Pipeline Owner or Operator with a list of additional contacts that shall be made in the event of a Pipeline emergency or incident. The Town will inform the Pipeline Owner or Operator of the emergency response groups that will be contacted through 911;
7. Upon discovery of a Pipeline emergency or incident, the following communications are to be initiated by the affected Pipeline Owners or Operators:
 - a. A general description of the emergency or incident;
 - b. The location of the emergency or incident;
 - c. The name and telephone number of the person reporting the emergency or incident;
 - d. The name of the Pipeline Owner or Operator;
 - e. Whether or not any hazardous material is involved and identification of the hazardous material so involved;
 - f. Any other information as requested by the emergency dispatcher or other such official at the time of reporting the emergency or incident;
 - g. The Pipeline Owner or Operator shall contact any other emergency response groups that are necessary that may not be activated through the county 911 system;
 - h. The Pipeline Owner or Operator shall contact the Town's Department of Public Safety immediately after the discovery of any Pipeline emergency;

- i. Each Pipeline containing natural Gas which contains hydrogen sulfide in concentrations of more than one hundred (100) parts per million, shall be constructed with an audible alarm system that will provide an alarm to the public in the event of a leak from any Pipeline. The audible alarm system shall be of a type and design approved by the Town;
- j. Within two (2) years of the effective date of the Pipeline Permit and every two (2) years thereafter, the Pipeline Owner or Operator shall conduct an on-site, emergency drill that includes, but shall not be limited to, the personnel operating the Pipeline, local law enforcement personnel, and officials of the Town;
- k. Notwithstanding the foregoing, all incidents involving Well safety or integrity that do not rise to the level of a Pipeline emergency shall additionally be reported to the Town by completing an incident report on forms prepared by the Town. Incident reports must be filed by the Pipeline Owner or Operator within twenty four (24) hours of discovering the incident.

Sec. 56-68. Pipeline Repairs and Maintenance.

- a) All repairs and maintenance to the Pipeline shall be performed in accordance with Federal, State and Commission requirements.
- b) If non-emergency repairs necessitate excavation of the pipeline, prior notification is required to occupants of business establishments and residential dwellings located within five hundred (500') feet from the centerline of the pipeline to be excavated.
- c) Above-ground non-emergency repairs that are not routine maintenance necessitate prior notification to occupants of businesses and residential dwellings located within five hundred feet (500') from the centerline of the pipeline section to be repaired.
- d) Without limitation of the methods of giving the notice required in subsections (b) and (c), notice shall be by U.S. regular mail, postage

prepaid and mailed at least five (5) days prior to commencing any non-emergency repair.

- e) Inspection of the interior of all pipelines subject to these standards shall follow United States Department of Transportation and Railroad Commission rules.

Sec. 56-69. No Grant of Town Easement, No Assumption of Responsibility by Town.

- a) Nothing in this Article grants permission for the use of any Right-of-way or property of the Town without the Town's express written permission.
- b) Nothing in this Article shall be construed as an assumption by the Town of any responsibility of an Owner or Pipeline Owner or Operator not owned by the Town; and no Town officer, employee or agent shall have authority to relieve an Owner or Operator from its responsibility under this Article or by any other law, ordinance or resolution.

Sec 56-70. Protection and Painting of Pipeline Structures.

All Pipeline risers and all appurtenances related to Pipeline construction and operations composed of materials generally protected or painted shall be protected and painted and shall be repainted at sufficiently frequent intervals to maintain same in good condition. It shall be a violation of this Article for any Pipeline riser or appurtenances related to Pipeline construction and operations to be in a state of disrepair or to have chipped, peeling or unpainted portions thereof.

Sec. 56-71. Waiver/Hold Harmless Agreement Required for Issuance of Building Permit.

Any Person applying to obtain a building permit for the erection, construction, reconstruction or expansion of any Building, of which any portion of such erection, construction, reconstruction or expansion would occur within one hundred (100') feet of an existing Gas Pipeline or Pipeline

easement, shall, prior to and as a condition of the issuance of such building permit, execute the following waiver and hold harmless agreement, which shall be duly acknowledged in the manner provided by law, and which shall thereafter be notarized and recorded in the appropriate deed or other permanent county records:

"I, (Applicant's Name), do hereby state, on my oath, that I fully realize I am applying for a permit from the Town of Westlake to build within one hundred (100') feet of an existing Gas Pipeline or Pipeline easement; that I am fully aware of the dangers inherent in building near such pipeline or easement, including, but not limited to, explosion and release of noxious, toxic and flammable substances; and, further, that I do hereby release and agree to forever hold harmless the Town of Westlake, Texas, its officers, officials, employees, successors and assigns from all liability in any way arising from the Building, use or habitation of the Building described in the said permit."

Sec. 56-72. Street and Right-of-way Use.

- a) In the event a Gas Pipeline is placed within the Right-of-way, the Pipeline Owner or Operator shall comply with the Right-of-way use regulations.
- b) To the extent that the provisions of this Article conflict with the Town's Right-of-way use ordinance, this Article shall apply.

Sec. 56-73. Violations.

- a) Any Owner, Operator or Pipeline Owner or Operator who shall have failed to comply with this Article, shall be deemed to maintain a nuisance and the Town may take such measures to remedy such nuisance, including, but not limited to, revocation of a Gas Well Pad Site Permit, Gas Well Permit, or the Pipeline Owner or Operator's Pipeline Permit.
- b) It shall be a violation of this Article for a Person to knowingly make a misrepresentation of any information to be reported pursuant to this Article. It shall also be a violation of this Article if the Person makes such misrepresentation as a result of failure to exercise such due diligence of investigation or inquiry, as would a reasonably prudent

Operator or Pipeline Owner or Operator conducting business in the Town.

- c) Each violation of any section, subsection or part of this Article shall be a separate offense. Each day of on-going violation shall be a separate offense, and shall carry with it a fine of not less than one thousand dollars (\$1,000.00) per day nor more than two thousand dollars (\$2,000.00) per day.
- d) The Town shall be entitled to injunctive relief or any other appropriate relief in a court of appropriate jurisdiction to prevent violation of or to compel compliance with this Article.

Sec. 56-74. Bond and Insurance Required.

- a) In the event that a pipeline permit and/or license is issued for a pipeline or other operations under this Article, no actual operation shall be commenced until the permittee shall file with the Town Secretary a bond and a certificate of insurance as follows:
 - 1) No person shall begin the construction or operation of any pipeline until he has filed with the Town Secretary a duly executed bond executed by the applicant as principal with an A.M. Best "A" rated surety company that is acceptable to the Town and is licensed to conduct business in the State as surety, payable to the Town, and the policy shall name the Town as an additional insured and such surety company shall maintain an A.M. Best "A" rating for the policy period. Said bond shall include conditions that the applicant, its heirs, assigns and successors will do the following:
 - a. Comply with the terms and conditions of the application and this Article in the construction, operation and maintenance of the pipeline and related structure(s);
 - b. All streets and sidewalks and all other public places and all public utilities that may be injured or damaged in the operation will be restored to their former condition;
 - c. All litter, machinery, buildings, trash, and waste used, accumulated or allowed in the construction of any pipeline will be removed within ten (10) days of the completion of said construction;

- d. All litter, machinery, buildings, trash, and waste used, accumulated or allowed in the operation of any pipeline will be removed within (10) days of the completion of said operations'
 - e. Such bond shall be in the sum of one million dollars (\$1,000,000.00) and before the pipeline permit and/or license shall be issued, the bond shall be approved by the Town and filed with the Town Secretary. Such bond shall become effective upon the granting of the pipeline permit and/or license and shall remain in full force and effect until all work under the terms of such pipeline permit and/or license has been completed. Such bond may later be amended to include other pipelines, under provisions of other applications, or other permits.
- 2) In addition to the bond required in this Article above, each person desiring to construct a pipeline or to conduct any other work under the provisions of this Article shall be required to carry public liability insurance with a carrier rated "A" or better by A.M. Best in a minimum amount of one million dollars (\$1,000,000.00) for one (1) person and five million dollars (\$5,000,000.00) for one (1) accident and property damage insurance in the amount of ten million dollars (\$10,000,000.00) for one (1) accident, which shall remain in full force and effect and be carried so long as such pipeline is operated. A certificate of insurance shall be furnished annually by the permittee or the subsequent Owner and Operator of such pipeline showing that such insurance is and continues in effect.
- 3) Permittee shall provide and maintain in full force and effect during the term of its permit insurance with the following minimum limits:
- a. Worker's compensation at statutory limits;
 - b. Employer's liability, including bodily injury by accident and by disease, for five hundred thousand dollars (\$500,000.00) combined single limit per occurrence and a twelve (12) month aggregate policy limit of one million dollars (\$1,000,000.00);
 - c. Commercial general liability coverage, including blanket contractual liability, products and completed operations, personal injury, bodily injury, broad form property damage, operations hazard, pollution, explosion, collapse and

underground hazards for five million dollars (\$5,000,000.00) per occurrence and a twelve (12) month aggregate policy limit of ten million dollars (\$10,000,000.00);

- d. Automobile liability insurance for automobiles used by the permittee in the course of its performance under the pipeline permit and/or license, including employer's non-ownership and hired auto coverage for two million dollars (\$2,000,000.00) combined single limit per occurrence;
- e. The Town shall adjust the above minimum liability limits every five (5) years during the term of the pipeline permit and/or license, or sooner as determined by the Town Council, to compensate for the effects of inflation and with the objective to reestablish the value of coverage required as of the effective date of this Article;
- f. Each policy or an endorsement thereto, except those for worker's compensation and employer's liability, shall name the Town and its officers, officials, employees, successors and assigns as additional insured parties, but limited to risks indemnified pursuant to this Article. If any such policy is written as claims made coverage and the Town is required to be carried as an additional insured, then the permittee shall purchase policy period extensions so as to provide coverage to the Town for a period of at least two (2) years after the last date that the pipeline permit and/or license is in effect. No deductible shall exceed ten (10%) percent of the minimum limits of liability or one (1%) percent of the consolidated net worth of the permittee and its permitted affiliates, whichever is greater.;
- g. Permittee shall assume and bear any claims or losses to the extent of deductible amounts and waives any claim it may ever have for the same against the Town and its officers, officials, employees, successors and assigns in respect of any covered event;
- h. All such policies and certificates shall contain an agreement that the insurer shall notify the Town in writing not less than thirty (30) days before any material change, reduction in coverage or cancellation of any policy. Permittee shall give written notice to the Town within five (5) days of the date upon which total claims by any party against permittee

reduce the aggregate amount of coverage below the amounts required by the pipeline permit and/or license;

- i. Each policy must contain an endorsement to the effect that the insurer waives any claim or right in the nature of subrogation to recover against the Town, its officers, officials, employees, successors and assigns;
- j. Each policy must contain an endorsement that such policy is primary insurance to any other insurance available to the Town as an additional insured with respect to claims arising there under;
- k. The Town Council may modify the requirements of this section, as it deems appropriate, in order to account for the risk and possible threat to the public health, safety and general welfare posed by the operation of pipelines within the Town.

Sec. 56-75. Termination of Permit and/or license.

Any violation of the provisions of any or all sections of this Article shall be grounds for the termination of any Pipeline Permit. The termination of any Pipeline Permit shall require the immediate cessation of all operations subject to the pipeline permit and shall require the Pipeline Owner or Operator to reapply for a new Pipeline Permit in full accordance with the provisions of this Article.

SECTION 3:

This Ordinance shall be cumulative of all provisions of ordinances of the Town, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4:

It is hereby declared to be the intention of the Town Council that the

phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity, unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

SECTION 5:

In addition to other remedies in this Ordinance, any Person, firm, corporation or entity who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of, the provisions of this Ordinance shall be fined not more than two thousand dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 6:

The Town Secretary of the Town of Westlake is, upon adoption by the Westlake Town Council, hereby directed to publish the Ordinance by caption and shall additionally publish this Ordinance or its caption and penalty in the official Town newspaper one (1) time within ten (10) days after final passage.

SECTION 7:

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 27 DAY OF APRIL 2009.

Laura Wheat, Mayor

ATTEST:

Kim Sutter, TRMC, Town Secretary

Thomas E. Brymer, Town Manager

APPROVED AS TO FORM:

Stan Lowry, Town Attorney