

**CITY OF WEATHERFORD  
ORDINANCE NO. 654-2013-48**

**AN ORDINANCE OF THE CITY OF WEATHERFORD, TEXAS (“CITY”), AMENDING ORDINANCE 82-2004-25, THE OIL AND GAS WELL REGULATIONS OF THE CITY, PROVIDING FOR REVISED REGULATIONS GOVERNING THE DRILLING AND PRODUCTION OF OIL AND GAS WELLS WITHIN THE CITY; PROVIDING FOR REVISED REGULATIONS REGARDING PERMITTING AND TECHNICAL CRITERIA; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR PUBLICATION IN THE OFFICIAL CITY NEWSPAPER; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Weatherford, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, on July 13, 2004, the City Council of the City of Weatherford adopted Ordinance Number 82-2004-25, governing the drilling and production of oil and gas wells within the city limits of Weatherford; and

**WHEREAS**, the City Council, after due and careful consideration, determined that the regulations established by Ordinance Number 82-2004-25 were inadequate to address certain permitting and technical issues created by oil and gas exploration extraction, development and transportation activities; and

**WHEREAS**, in light of such careful consideration, the City Council concluded that it was reasonable and necessary to update municipal ordinances and regulations to provide for a fair and equitable system of regulations relating to oil and gas exploration and mineral extraction, development and transportation so as to protect the property interest of mineral estate owners while also protecting the rights, opportunities and property interests of surface estate owners; and

**WHEREAS**, at the direction of the City Council, City staff completed such investigations as it deemed necessary to determine the state of regulations applicable to oil and gas exploration and other forms of mineral extraction and transportation under the current ordinances and regulations of the City and has proposed revised regulations to the City Council that more adequately serve to protect the public health, safety and welfare and mitigate the effects of such activity on property values and neighborhood character; and

**WHEREAS**, the City Council has diligently and in good faith reviewed, deliberated and considered public, staff, and professional consultant input, including input provided during the pendency of prior gas oil and well permitting cases, in evaluating all reasonable and sound revisions to the Oil and Gas Well Regulations of the City; and

**WHEREAS**, the City Council finds that the amendments proposed herein justly and fairly balance the interests of mineral rights owners by providing for the orderly exploration,

development, and production of hydrocarbons while also diligently protecting the public health, safety and welfare of the citizens of Weatherford; and

**WHEREAS**, in light of the foregoing, the City Council now deems it advisable and necessary to amend the current regulations for the drilling and production of oil and gas wells within the City in order to protect the public health, safety and general welfare of the citizens of the City of Weatherford, Texas.

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

**SECTION 1.**

The above findings are hereby found to be true and correct and are incorporated herein in their entirety.

**SECTION 2.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending Section 9-9-2 by deleting the definition of "High Impact Area" in its entirety and amending the definition of "Director" to read as follows:

*"Director means the Director of Planning and Development for the City of Weatherford or such other person as designated by the Director of Planning and Development."*

**SECTION 3.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending Section 9-9-4 as follows:

1. By deleting paragraphs (c) and (d) in their entirety; and
2. By amending paragraph (g) to read as follows:

*"(g) Except as otherwise provided herein, all permits require council approval. Council shall review the application, director's and/or consultant's report and any other related information. Council may require any change in the operations, plan, design, layout, fencing, screening, lighting, or other matters reasonably required by the public interest, health, safety or welfare which are consistent with the standards of the zoning districts in which the well is located and those districts which surround the well site."*

**SECTION 4.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by adding a new Section 9-9-4.5, which shall read as follows:

**"9-9-4.5. – Non-permitted wells.**

- (a) For the purposes of this Section, a “Non-permitted Well” shall be defined as a well that has not been permitted by the City and that meets one or more of the following criteria:
  - (1) Any well in existence or on any wells on which drilling has commenced on land annexed into the city after the effective date of this chapter;
  - (2) Any well that was planned for the land before the 90th day before the effective date of its annexation and one (1) or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for such well and the completed application for the initial authorization was filed before the date the annexation proceedings were instituted; and
  - (3) Any existing well within the territorial limits of the City, the drilling of which predates July 13, 2004.
- (b) Except as provided in this Section, Non-permitted Wells are exempt from the requirements of this Chapter.
- (c) The operator of a Non-permitted Well shall have forty-five (45) days after the enactment of this Chapter or annexation into the city to comply with the following:
  - (1) designate a gas operation as a preexisting operation by filing a site plan drawn to scale that shows the location or proposed location of the well with respect to survey lines and the proposed associated production facilities, if any, with the Director;
  - (2) provide proof of insurance covering the Non-permitted Well in the form of a standard commercial general liability insurance bond; and
  - (3) install a six-foot security fence around the entire perimeter of the Non-permitted Well site, which shall be of chain link composition topped by a single strand of barbed wire or solid wood with metal posts.
- (d) The requirements of this section 9-9-4.5 are hereby declared to be necessary to protect the public health and safety of the community.”

**SECTION 5.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended as follows by amending Section 9-9-5 as follows:

- 1. By amending subparagraph (4) to read as follows:

“(4) The names and addresses of all property owners within 1000 feet of the drill site property perimeter;”

- 2. By amending subparagraph (20) to read as follows:

“(20) Copies of all reports required by the Texas Commission on Environmental Quality and Texas Railroad Commission;”

3. By amending subparagraph (26) to read as follows:

“(26) Copy of Texas Railroad Commission “Depth of Usable-Quality Groundwater to be Protected (0051R Transition Form)” letter;”

4. By adding a new subparagraph (29), which shall read as follows:

“(29) A landscaping and irrigation plan designed by a licensed landscape architect and a licensed irrigator, respectively. At a minimum, the plan must account for landscaping and irrigation around the operation site and all associated equipment with the goal of ensuring compatibility with the environment and existing surrounding area.”

## **SECTION 6.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending Section 9-9-6 by amending paragraph (c) as follows:

1. By amending subparagraph (2) to read as follows:

“(2) A security fence shall be required on sites during initial drilling, completion or reworking operations. A secured entrance gate shall be required. All gates are to be kept locked when the operator or his employees are not within the enclosure. Separate fencing may be required after completion of the drilling operations.”

2. By amending subparagraph (7) to read as follows:

“(7) All sites shall be screened by a fence enclosure constructed of any material compatible with surrounding uses which effectively screens the site. Such shall be completed within thirty (30) days after completion of drilling or reworking, or within thirty (30) days after activation of an idle well.”

3. By adding a new subparagraph (8) to read as follows:

“(8) All fences shall be equipped with at least one (1) gate. The gate shall meet the following specifications:

- a. Each gate shall be not less than twelve (12) feet wide and be composed of two (2) gates, each of which is not less than six (6) feet wide, or one (1) sliding gate not less than twelve (12) feet wide. If two (2) gates are used, gates shall latch and lock in the center of the span;

- b. The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site; and
- c. The permittee must provide the fire marshal with a “Knox Padlock” or “Knox Box with a key” to access the well site to be used only in case of an emergency.”

**SECTION 7.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending Section 9-9-6 by amending paragraph (d) by adding a new subparagraph (6), which shall read as follows:

“(6) Gating and securing of access roads.”

**SECTION 8.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending Section 9-9-7 as follows:

- 1. By amending paragraph (a) to read as follows:

“(a) Drilling Permits.

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- 2. By amending subparagraph (1) of paragraph (a) to read as follows:

“(1) After a permit application is submitted, the director, if deemed necessary, may retain a consultant to evaluate the public impact of the proposed activity. The consultant shall study the application, proposed site, and proposed operations or drilling program, and shall draft recommended restrictions or conditions to be appended to the permit if issued, including but not limited to, minimum separation distance for drilling or other operations, maximum pressures for anticipated operations, minimum test procedures for equipment, special safety equipment and procedures, hours of operation, and prohibited operations or techniques. The consultant shall recommend noise reduction levels and screening where deemed appropriate. The recommendation shall be completed and delivered to the director and applicant within thirty (30) days after the consultant is retained. Applicant shall pay for the cost of consultant's study and recommendations prior to the public hearing.”

- 3. By amending subparagraph (3) of paragraph (a) to read as follows:

“(3) All persons with property located within six hundred (600) feet of the proposed drill site property perimeter, as shown by the latest county appraisal district certified tax rolls, shall be notified of the public hearing by certified mail, return receipt requested. The applicant shall pay the current certified postage fee for each notification letter. These fees will be

paid as part of the application process pursuant to Section 9-9-5(1). No notification letter shall be necessary if the applicant files a consent form, supplied by the city secretary, signed and notarized, by each such property owner who would have received notice pursuant to this paragraph.”

4. By amending subparagraph (1) of paragraph (b) by adding new subparagraphs f. and g., which shall read as follows:

- “f. A detailed map showing the locations of all vibration and geophone points.
- g. A fee in the amount established by minute order of the city council must accompany each seismic survey permit application.”

5. By amending paragraph (b) by adding new subparagraphs (3) and (4), which shall read as follows:

- “(3) No seismic activity shall be permitted on city-owned fee property without the express consent of, and pursuant to the conditions established by, the city council.
- (4) No seismic activity shall be permitted within city-owned rights-of-way or utility easements without first entering into a license agreement with the city, prepared by the city public works department.”

#### **SECTION 9.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending Section 9-9-9 by amending paragraph (a) to read as follows:

- “(a) The council shall review the application, director's and/or consultant's report, and any other related information associated with the permit application. Granting the permit shall be conditioned on the applicant submitting the security instrument, required pursuant to Section 9-9-10, to the city within thirty (30) days of the effective date thereof. The council may require any change in the operations, plan, design, layout, fencing, screening, lighting, or other matters consistent with the city's land use regulations and other applicable health, safety, and welfare ordinances. The council may accept, reject, or modify the recommendations in the interest of securing compliance with this chapter, other city ordinances, and/or to protect the health, safety, and welfare of the community.”

#### **SECTION 10.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending Section 9-9-10 as follows:

1. By amending paragraph (b) to read as follows:

“(b) The security instrument may be provided for individual wells or on a "blanket" basis for multiple wells. The amount of the security shall be a minimum of \$50,000.00 for any single well and a minimum of \$100,000.00 for multiple wells on a "blanket" basis; provided, however that the council may increase the amount of security in order to protect and safeguard the health, safety, and welfare of the public.”

2. By amending paragraph (d) to read as follows:

“(d) The applicant for a drilling permit may apply to the city council for a modification of the amount of security required by this section.”

3. By adding a new paragraph (h) to read as follows:

“(h) A permit shall automatically terminate, unless extended, if drilling is not commenced within one hundred eighty (180) days from the date of issuance. A permit may be extended by the director for an additional period of one hundred eighty (180) days upon request by the permittee and proof that the location requirements set forth in section 9-9-8 have not changed. A permit covering a well that has been timely drilled shall remain in effect until the well is plugged and abandoned unless the permit is earlier suspended or revoked in accordance with this chapter.”

#### **SECTION 11.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending Section 9-9-12 to read as follows:

#### **“Sec. 9-9-12. – Annual Inspection.**

(a) The director shall conduct an annual inspection of each permitted well in the city to determine that the wells are operating in accordance with the requirements of this chapter and all regulations of the Railroad Commission, and may, in the director’s discretion, conduct such additional inspections as the director deems appropriate to insure safe and proper operations of the wells.

(b) An appropriate annual inspection fee shall be established on a per well basis by minute order of the city council in order to recoup the administrative expenses incurred by the city in performing such inspections. Said inspection fee shall be paid annually by the permittee beginning on the first anniversary of the initial issuance date of the subject permit and each year thereafter on the anniversary date thereof.

(c) The requirement that annual inspections be performed is hereby declared to be necessary to protect the public health and safety of the community and is hereby made applicable to all existing wells within the territorial limits of the City that do not constitute Non-permitted Wells.”

#### **SECTION 12.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by adding a new Section 9-9-13.5, which shall read as follows:

**“Sec. 9-9-13.5. – Amended permits.**

- (a) A permittee must submit an application to the director to amend an existing permit, to commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) the existing permit, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing permit, or to otherwise amend the existing permit.
- (b) Applications for amended permits shall be in writing on forms provided by the city and signed by the permittee, and shall include the following:
  - (1) An application fee in the amount established by minute order of the city council. The application fee is not refundable regardless of the outcome of the application.
  - (2) A description of the proposed amendments.
  - (3) Any changes to the information submitted with the application for the current permit (if such information has not previously been provided to the city).
  - (4) Such additional information as is reasonably required by the director or city staff to demonstrate compliance with the applicable permit.
  - (5) Such additional information as is reasonably required by the director or city staff to prevent imminent destruction of property or injury to persons.
- (c) If, in the judgment of the director, the activities proposed by the amendment require an inspection, an inspection fee in the amount set forth by minute order of the city council shall be assessed. The permittee must pay the fee before the amended gas well permit will be issued.
- (d) Incomplete applications shall be returned to the applicant. The city shall return any application as incomplete if there is a dispute pending before the Railroad Commission regarding the determination of the permittee.
- (e) If the activities proposed by the amendment are materially different and, in the judgment of the director, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing permit or that was not otherwise taken into consideration by the current permit, the amendment must be processed as a new permit application under the provisions of section 9-9-4.



- (f) A decision to deny an amendment to a permit shall be provided to the permittee in writing, including an explanation of the basis for the decision. The permittee may appeal any such denial to the city council.
- (g) No amended gas well permit shall be issued if the proposed activities are not in conformance with the provisions of this chapter, Building Code, Fire Code and all other applicable city ordinances.”

### **SECTION 13.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by adding a new Section 9-9-13.55, which shall read as follows:

**“Sec. 9-9-13.55 – Assignment of permits.**

Except as permitted in this section, a permittee shall not convey, transfer, or assign any of its rights under a permit without the prior written consent of the director. Notwithstanding the foregoing, a permittee may assign the permit without the consent of the director provided that all of the following conditions are satisfied:

- (1) The assignee must have the requisite legal authority to operate a well in the state;
- (2) The permittee must give written notice of the assignment to the director; and
- (3) The permittee must deliver to the city a written agreement signed by the assignee in which the assignee agrees to comply with and be bound by all the terms and conditions of the permit and this chapter.

Any purported assignment that does not satisfy all of the foregoing conditions shall be void.”

### **SECTION 14.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending Section 9-9-14 as follows:

- 1. By amending paragraph (a) to read as follows:

“(a) A supplemental permit shall be obtained before a permitted well may be reworked for purposes of redrilling, deepening or converting such well to a depth or use other than that set forth in the then current permit for such well. A supplemental permit application shall be filed with the city council and must specify:

- (1) The condition of the well and the casing therein;

- (2) The depth to which it is proposed that such well will be deepened; and
- (3) The proposed casing and cementing programs to be used in connection with the proposed deepening operation.”

2. By adding a new paragraph (d), which shall read as follows:

- “(d) The director may not approve an amended permit, pursuant to section 9-9-13.5, which includes permission to rework a permitted well for purposes of redrilling, deepening or converting such well to a depth or use other than that set forth in the then current permit for such well.”

#### **SECTION 15.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending section 9-9-16 by amending paragraph (a) to read as follows:

- “(a) If a screening fence is required pursuant to subsection 9-9-6(c), such fence shall be gated and remain locked at all times when the permittee or his employees are not within the enclosure.”

#### **SECTION 16.**

That Chapter 9 of Title IX of the Official City Code of the City of Weatherford is hereby amended by amending Section 9-9-18 by amending paragraph (c) to read as follows:

- “(c) All tanks containing petroleum products shall be enclosed within a conventional type firewall constructed of compacted earth; sufficient water shall be used during the firewall construction to assure adequate compaction.”

#### **SECTION 17.**

This ordinance shall be cumulative of all provisions of ordinances of the City of Weatherford, Texas, 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 18.**

It is hereby declared to be the intention of the City 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 unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such 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 City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 19.**

Any person, firm or corporation 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, upon conviction, not more than Two Thousand Dollars (\$2,000.00) for each offense affecting zoning, fire safety or public health and sanitation, and Five Hundred Dollars (\$500.00) for all other offenses. Each day that a violation is permitted to exist shall constitute a separate offense.

#### **SECTION 20.**

All rights and remedies of the City of Weatherford are expressly saved as to any and all violations of the provisions of Ordinance 82-2004-25, as amended, or any other ordinances affecting oil, gas and hydrocarbon drilling, production, development, and transportation which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

#### **SECTION 21.**

The City Secretary of the City of Weatherford is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

#### **SECTION 22.**

The City Secretary of the City of Weatherford is hereby directed to publish in the official newspaper of the City of Weatherford the caption, penalty clause and effective date clause of this ordinance as provided by the Charter of the City of Weatherford.

#### **SECTION 23.**

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

The foregoing ordinance was introduced, read, approved, and passed on first and final reading by a vote of \_\_\_ ayes and \_\_\_ nays by the City Council of the City of Weatherford, Texas, at its meeting on the 10<sup>th</sup> day of December 2013.

CITY OF WEATHERFORD, TEXAS

\_\_\_\_\_  
Dennis Hooks, Mayor

ATTEST:

\_\_\_\_\_  
Malinda Nowell, City Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Ed Zellers, City Attorney