

ORDINANCE NO. 06-01A

AN ORDINANCE OF THE TOWN OF DISH, TEXAS REGULATING THE DRILLING AND PRODUCTION OF GAS WELLS WITHIN THE TOWN; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of DISH, Texas is a type C general-law municipality located in Denton County, and created in accordance with the provisions of Chapter 8 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, there has been increased interest in gas drilling and production within the Town of DISH; and

WHEREAS, the Town Board of Commissioners recognizes that commercial gas deposits underlie areas of the Town; and

WHEREAS, there is a need to allow for the development of these natural resources in a manner that protects the health, safety and welfare of the public; and

WHEREAS, the Town Board of Commissioners deems it necessary to adopt comprehensive regulations for the drilling and production of gas within the Town limits; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF COMMISSIONERS OF THE TOWN OF DISH, TEXAS:

SECTION 1: PURPOSE

The exploration, development, and production of gas in the Town is an activity which necessitates reasonable regulation to ensure that all property owners, mineral 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 Ordinance 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 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 mineral rights owners, protect the quality of the environment and insure the orderly production of available mineral resources.

SECTION 2: DEFINITIONS

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this Ordinance shall have the meanings customarily attributable thereto by prudent and reasonable gas industry Operators. The following words, terms and

phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment means “abandonment” as defined by the Texas Railroad Commission and includes the plugging of the well and the restoration of any well site as required by this Ordinance.

Blowout preventer means a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a 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 for preventing blowouts.

Building means any structure used or intended for supporting or sheltering any use or occupancy. The term “building” shall be construed as if followed by the words “or portions thereof.”

Cathodic protection means 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.

Commission means the Texas Railroad Commission.

Completion of drilling, re-drilling and re-working means the date the work is completed for the drilling, re-drilling or re-working and the crew is released by completing their work or contract or by their employer.

Derrick means any portable framework, tower, mast and/or structure which is required or used in connection with drilling or re-working a well for the production of gas.

Drilling means digging or boring a new well for the purpose of exploring for, developing or producing gas or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling equipment means the derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.

Drill site means the premises used during the drilling or re-working of a well or wells located there and subsequent life of a well or wells or any associated operation.

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

Fire Department means the Fire Department serving the Town of DISH.

Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard

temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

Gas well means any well drilled, to be drilled, or used for the intended or actual production of natural gas.

Gas Well Permit means a permit for the exploration, development and production of gas wells issued pursuant to the rules and regulations of this Ordinance.

Historical Site means a historic structure as defined by Section 442.001 of the Texas Government Code, or a structure or property that is designated as historic by a political subdivision of the state, the state, or the federal government.

Inspector means the Gas Well Inspector of the Town of DISH.

Operation site means the area used for development and production and all operational activities associated with gas after drilling activities are complete.

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

Person means both the singular and the plural and means a natural person, a corporation, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind.

Public park means any land area dedicated to and/or maintained by the Town for traditional park-like recreational purposes, but shall not include privately-owned amusement parks or privately-owned or privately-managed golf courses.

Re-drill means re-completion of an existing well by deepening or sidetrack operations extending more than one hundred fifty (150') feet from the existing well bore.

Refracture means the process of restimulating a well after initial completion using high pressure hydraulic fracture techniques.

Refracture Permit means a permit authorizing the refracture of a completed well, issued pursuant to the rules and regulations of this Ordinance.

Religious Institution means any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Residence means a house, duplex, apartment, townhouse, condominium, mobile home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a Gas Well Permit is filed with the Inspector.

Re-working means re-completion or re-entry of an 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 means 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.

School means any public and private, primary and secondary educational facilities providing education up through and including the twelfth grade level and any licensed day care centers, meaning 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 children under 14 years of age, and for less than 24 hours per day.

Street means any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way.

Seismic Survey Activity means any activity where, for any consideration whatsoever, shock waves, sound waves, or vibrations are generated for the purpose of surveying, mapping, identifying, classifying or otherwise distinguishing subsurface characteristics indicative of the presence or absence of hydrocarbon substances, including, but not limited to, oil and natural gas.

Tank means a container, covered or uncovered, used in conjunction with the drilling or production of gas or other hydrocarbons for holding or storing fluids.

Technical advisor means such person(s) 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.

Town means the Town of DISH.

Town Attorney means the Town Attorney of the Town of DISH.

Well means a hole or holes, bore or bores, to any horizon, formation, or strata for the purpose of producing gas, liquid hydrocarbon, brine water or sulphur water, or for use as an injection well for secondary recovery, disposal or production of gas, or other hydrocarbons from the earth.

SECTION 3: INSPECTOR

A. The Inspector who shall enforce the provisions of this Ordinance and shall have the authority to issue any orders or directives required to carry out the intent and purpose of this Ordinance and its particular provisions. Failure of any person to comply with any such order or directive shall constitute a violation of this Ordinance.

B. The Inspector shall have the authority to enter and inspect any premises covered by the provisions of this Ordinance to determine compliance with the provisions of this Ordinance and

all applicable laws, rules, regulations, standards or directives of the State. Failure of any person to permit access to the Inspector shall constitute a violation of this Ordinance. The Inspector shall conduct periodic inspections at least once a year of all permitted wells in the Town to determine that the wells are operating in accordance within proper safety parameters as set out in this Ordinance and all regulations of the Commission.

C. The Inspector shall have the authority to request and receive any records, including any records sent to the Commission, logs, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable Gas Well Permit. Failure of any person to provide any such requested material shall be deemed a violation of this Ordinance.

SECTION 4: OPERATOR'S AGENT

Every Operator of any well shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail. A physical address will be required on all applications. No P.O. Box addresses will be accepted. Every Operator so designating such agent shall within ten (10) days notify the Inspector in writing of any change in such agent or such mailing address unless operations within the Town are abandoned.

SECTION 5: GAS WELL PERMIT REQUIRED

A. A person wanting to engage in and operate in gas production activities shall apply for and obtain a Gas Well Permit under this Ordinance. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, re-working, fracturing or operation of any such 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 Ordinance. Such activities include, but are not limited to re-working, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing.

B. Operator must apply for and obtain a Gas Well Permit for the drilling, re-drilling, deepening, re-entering, activating or converting of each well. Each proposed well hole shall require a separate permit and shall not be permitted on a "blanket" basis.

C. A Gas Well Permit shall not constitute authority for the re-entering and drilling of an abandoned well. An Operator shall obtain a new Gas Well Permit in accordance with the provisions of this Ordinance 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, deepening, re-entering, activating or converting of a well, such Gas Well Permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, repair, re-working, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well, provided, however, that a new or supplemental permit shall be obtained before such well may be reworked for purposes of re-drilling, deepening or converting such well to a depth or use other than that set forth in the then current permit for such well.

E. Any person who intends to refracture a permitted well after initial completion shall apply for and obtain a Refracture Permit. Application for a Refracture Permit must be submitted no later than 45 days before the activities are proposed to begin and must include an Inspection Fee in an amount of Two Thousand Two Hundred Fifty (\$2,250.00) Dollars. The application must identify where the activities will be conducted and describe the activities in detail. Within ten (10) days after the permit is submitted the applicant shall provide evidence to the Inspector that notice of the proposed refracture has been provided to each surface owner of property, as shown by the current tax role, within three hundred (300') feet of the proposed refracture site. The notice must also include the address and 24-hour phone number of the person conducting the activities. If requested by the Inspector, the person conducting the refracture activities must post a sign on the property giving the public notice of the activities, including the name, address and 24-hour phone number of the person conducting the activities. Reinspection by the Inspector of the proposed refracture site to ensure continued compliance with the provisions of this Ordinance shall occur within 20 days of the date of submission of the Refracture Permit. The Inspector shall submit recommendations to the Town Board of Commissioners regarding the approval of the Refracture Permit authorizing a one-time refracture of a single completed well, including such restrictions or conditions the Inspector deems appropriate. The Town Board of Commissioners shall review and consider an application for a Refracture Permit at the next regularly scheduled Board of Commissioners meeting after receiving the Inspector's recommendations. In determining whether to grant a Refracture Permit, the Board of Commissioners shall consider the applicable factors set forth in this Ordinance for the initial Gas Well Permit. Refracture activities shall comply with all other provisions of this Ordinance governing fracture stimulation operations. Each completed well proposed for refracture shall require a separate permit.

F. The following requirements shall apply to all fracture stimulation operations performed on a well within three hundred (300') feet of an occupied residence: 1) at least 48 hours before operations are commenced, the operator shall post a sign at the entrance of the well site advising the public of the date the operations will commence; 2) "flowback" operations to recover fluids used during fracture stimulation shall be performed during daylight hours only unless the Inspector approves such operations during non-daylight hours; 3) a watchman shall be required at all times during such operations; and 4) at no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.

G. A Gas Well Permit shall automatically terminate, unless extended, if drilling is not commenced within one hundred eighty (180) days from the date of the issuance. A Gas Well Permit may be extended by the Inspector for one additional period of one hundred eighty (180) days upon request by the Operator and proof that the classification of the requested gas well permit for such location has not changed.

H. The Gas Well Permit required by this Ordinance is in addition to and are not in lieu of any permit which may be required by any other provision of this Ordinance or by any other governmental agency.

I. No Gas Well Permit shall be issued for any well to be drilled within any floodway.

J. No Gas Well Permit shall be issued for any property not appropriately zoned by the Town for natural gas exploration, production and development.

K. By acceptance of any Gas Well Permit issued pursuant to this Ordinance, the Operator expressly stipulates and agrees to be bound by and comply with the provisions of this Ordinance. The terms of this Ordinance shall be deemed to be incorporated in any Gas Well Permit issued pursuant to this Ordinance with the same force and effect as if this Ordinance was set forth verbatim in such Gas Well Permit.

SECTION 6: GAS WELL PERMIT APPLICATION AND FILING FEES

A. Every application for a Gas Well Permit issued pursuant to this Ordinance shall be in writing signed by the Operator, or some person duly authorized to sign on his behalf, and filed with the Inspector.

B. Every application shall be accompanied by a Gas Well Permit fee in the amount of Seven Thousand Five Hundred (\$7,500.00) Dollars.

C. The application shall include the following information:

- (1) The date of the application and type of Gas Well Permit requested.
- (2) An accurate legal description of the lease property to be used for the gas operation, the parcel and the production unit and name of the geologic formation as used by the Commission. Property recorded by plat should reference subdivision, block and lot numbers.
- (3) Map showing proposed transportation route and road for equipment, chemicals or waste products used or produced by the gas operation.
- (4) Proposed well name.
- (5) Surface owner names(s) and address(es) of the lease property.
- (6) Mineral Lessee name and address.
- (7) Operator/Applicant 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.
- (8) Name and address of individual designated to receive notice.
- (9) Name of representative with supervisory authority over all gas operation site activities and a 24-hour phone number.
- (10) Location and description of all improvements and structures within three hundred (300') feet of the well.
- (11) Owner and address of each parcel of property within three hundred (300') feet of the proposed drill site.

- (12) A site plan of the proposed operation site showing the location of all improvements and equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, tanks, pipelines, compressors, separators and storage sheds.
- (13) The name, address and 24-hour phone number of the person to be notified in case of an emergency.
- (14) The exact and correct acreage and number of wells.
- (15) Copies of all reports required by the Commission.
- (16) A signed Road Maintenance Agreement supplied by the Town that provides that the Operator shall repair, at his own expense, any damage to roads, streets, utilities or highways caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, and operation of gas wells.
- (17) A description of public utilities required during drilling and operation.
- (18) A description of the water source to be used during drilling.
- (19) A copy of the approved Commission permit to drill together with attachments and survey plats which are applicable to the drill and operation sites.
- (20) A copy of the Stormwater Pollution Prevention Plan as required by the Environmental Protection Agency. A copy of the notice of intent shall be submitted to the Town of DISH, Inspector, three (3) days prior to the commencement of any onsite activity.
- (21) A copy of the determination by the Texas Commission on Environmental Quality of the depth of useable quality ground water.
- (22) Evidence of insurance and security requirements under this Ordinance.
- (23) 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.
- (24) All required application and Gas Well Permit fees.
- (25) A landscaping plan, as required by Section 19, hereof.

SECTION 7: GAS WELL PERMIT PROCEDURE

A. An application for a Well Permit shall include all the requirements of Section 6 of this Ordinance as well as a detailed site plan that includes specific details regarding the projected location of the major components of the drilling site, impacted vegetation, creeks and other topographic features, adjacent building and other structures and the measured distance from the well site to these buildings and structures, temporary and permanent fencing and landscaping.

B. The permitting procedure for a Gas Well Permit shall be as follows:

- (1) Within forty-five (45) days of receipt of an application that complies in all respects with the provisions of this Ordinance, the Inspector shall request that the matter be placed on the Town Board of Commissioners agenda for a public hearing and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has requested in writing to be so notified. The forty-five (45) day period shall not begin to run until the applicant/Operator has provided the Inspector with a complete and fully compliant application package.
- (2) At least twenty (20) days, and no more than thirty (30) days prior to the date of the public hearing before the Town Board of Commissioners for a Gas Well Permit the Operator shall notify, at the Operator's expense, each surface owner of property, as shown by the current tax roll, within three hundred (300') feet of the proposed well not owned by or under lease to the Operator and the hearing date and time. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. The Operator shall file an affidavit with the Inspector showing the name and last known address, as identified by the current tax roll, of each owner of property to whom notice was mailed and the names of each owner of property to whom notice is required to be given, but whose address is unknown. Notice shall be sent to all registered neighborhood associations within one-half mile of the proposed drill site.
- (3) At least fifteen (15) days prior to the date of the public hearing before Town Board of Commissioners for a Gas Well Permit the Operator, at the Operator's expense, shall publish a copy of the notice as outlined below in two consecutive issues of the weekly official newspaper of the Town. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. The notice shall read as follows:

“Notice is hereby given that, acting under and pursuant to the Ordinances of the Town of DISH, Texas, on the _____ day of _____, 20____, _____ filed with the Town of DISH, an application for a Gas Well Permit to drill, complete and operate a well for gas upon property located at _____, Denton County, DISH, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat records of Denton County, Texas or per Tax Tract Number _____, Denton County, Texas. The Town Board of Commissioners will conduct a public hearing on the request for said permit on the _____ day of _____, 20____ at _____ o'clock _____ .m. in the Town Board of Commissioners Chambers located at 5413 Tim Donald Road, DISH, Texas.”

- (4) At least twenty (20) days prior to the date of the public hearing before the Town Board of Commissioners for a Gas Well Permit the Operator shall, at the Operator's expense, erect at least one sign, no less than three feet by three feet, upon the premises upon which a Gas Well Permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property.
 - (a) The sign(s) shall substantially indicate that a Gas Well Permit to drill for gas has been requested and state the date, time and place of the public hearing, and shall further set forth that additional information can be acquired by telephoning the applicant/Operator at the number indicated on the sign.
 - (b) The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action pursuant to this Ordinance.
 - (c) Any sign(s) shall be removed by the applicant/owner subsequent to final action by the Town Board of Commissioners.
- (5) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.
- (6) After a Gas Well Permit application is submitted, the Inspector shall evaluate the public impact of the proposed activity. The Inspector shall consider the proposed site and the proposed operations or drilling program and shall draft recommended restrictions or conditions, including minimum separation distance for drilling or other operations, special safety equipment and procedures, recommended noise reduction levels, screening and any other requirements the Inspector deems appropriate. The recommendation shall be submitted to the Town Board of Commissioners for consideration prior to the public hearing.
- (7) The burden of proof on all matters considered in the hearing shall be upon the applicant/Operator.
- (8) The Town Board of Commissioners shall review the application and any other related information. The Town Board of Commissioners shall consider the following in deciding whether to grant a Gas Well Permit:
 - (a) Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there;
 - (b) Whether the drilling of such wells would conflict with the orderly growth and development of the Town;
 - (c) Whether there are other alternative well site locations;

- (d) Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the Gas Well Permit conditions to be imposed;
 - (e) Whether there is acceptable access for fire personnel and fire fighting equipment; and
 - (f) Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the Gas Well Permit conditions are reasonable and justified, balancing the following factors:
 - (i) The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and
 - (ii) The availability of alternative drill sites.
 - (iii) The recommendations of the Inspector.
- (9) The Town Board of Commissioners may require an increase in the distance the well is setback from any residence, religious institution, hospital building, school, cemetery, historical site or public park, or require any change in operation, plan, design, layout or any change in the on-site and technical regulations in Sections 14 through 21 of this Ordinance, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.
- (10) No Gas Well Permit shall be issued for any well to be drilled within any public park without the prior consent of the Town Board of Commissioners. The Town Board of Commissioners shall review the insurance and security requirements on an individual basis prior to issuing the permit.
- (11) The Town Board of Commissioners may accept, reject or modify the application in the interest of securing compliance with this Ordinance and/or to protect the health, safety and welfare of the community.

SECTION 8: AMENDED GAS WELL PERMITS

A. An Operator may submit an application to the Inspector to amend an existing Gas Well Permit in accordance with this Section.

B. Applications for amended Gas Well Permits shall be in writing, shall be signed by the Operator, and shall include the following:

- (1) An Amended Application Fee in the amount of Two Thousand Two Hundred Fifty (\$2,250.00) Dollars.
- (2) A description of the proposed amendments.

- (3) Any changes to the information submitted with the application for the existing Gas Well Permit (if such information has not previously been provided to the Town).
- (4) Such additional information as is reasonably required by the Inspector to demonstrate compliance with the applicable Gas Well Permit.
- (5) Such additional information as is reasonably required by the Inspector to prevent imminent destruction of property or injury to persons.

C. All applications for amended Gas Well Permits shall be filed with the Inspector for review. Incomplete applications may be returned to the applicant, in which case the Town shall provide a written explanation of the deficiencies; however, the Town shall retain the application fee. The Town may return any application as incomplete if there is a dispute pending before the Railroad Commission regarding the determination of the Operator.

D. The Inspector shall place the application for amended Gas Well Permit on the Town Board of Commissioners agenda for consideration. No additional notice or public hearing shall be required in this case. If, however, the activities proposed by the amendment are materially different and, in the judgment of the Inspector, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing Gas Well Permit or that was not otherwise taken into consideration by the existing Gas Well Permit, the Inspector may require the amendment to be processed as a new Gas Well Permit application.

SECTION 9: SUSPENSION OR REVOCATION OF GAS WELL PERMIT; APPEAL

A. If an Operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a Gas Well Permit (including any requirement incorporated by reference as part of the Gas Well Permit), the Inspector shall give written notice to the Operator specifying the nature of the failure and giving the Operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. 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.

B. If the Operator fails to correct the noncompliance within thirty (30) days from the date of the notice, the Inspector may suspend or revoke the Gas Well Permit pursuant to the provisions of this Ordinance.

C. No person shall carry on any operations performed under the terms of the Gas Well Permit issued under this Ordinance during any period of any Gas Well Permit suspension or revocation or pending a review of the decision or order of the Town in suspending or revoking the Gas Well Permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the Gas Well Permit was ordered for the safety of persons or as required by the Railroad Commission.

D. If the Operator does not cure the noncompliance within the time specified in this Ordinance, the Inspector, upon written notice to the Operator, may notify the Commission and request that the Railroad Commission take any appropriate action.

E. Operator may, within thirty (30) days of the date of the decision of the Inspector in writing to suspend or revoke a Gas Well Permit, file an appeal to the Town Board of Commissioners under the provisions outlined in this Section.

F. The Town Board of Commissioners shall have and exercise the power to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the revocation or suspension of any Gas Well Permit issued by the Inspector of a Gas Well Permit as provided by this Ordinance. Any person or entity whose Permit is suspended or revoked or whose well or equipment is deemed by the Inspector to be abandoned may, within thirty (30) days of the date of the written decision of the Inspector file an appeal to the Town Board of Commissioners in accordance with the following procedure:

- (1) An appeal shall be in writing and shall be filed in triplicate with the Town Secretary. The grounds for appeal must be set forth specifically, and the error described, by the appellant.
- (2) Within forty-five (45) days of receipt of the records, the Town Secretary shall transmit all papers involved in the proceeding, place the matter on the Town Board of Commissioners agenda for hearing and give notice by mail of the time, place and purpose thereof to appellant and any other party who has requested in writing to be so notified. No other notice need to be given.

G. Appeal fees shall be required for every appeal in the amount of Three Hundred (\$300.00) Dollars.

H. The decision of the Town Board of Commissioners shall be final and binding on the appellant.

SECTION 10: PERIODIC REPORTS

A. The Operator shall notify the Inspector of any changes to the following information within one business week after the change occurs:

- (1) The name, address (physical address), and phone number of the Operator.
- (2) The name, address (physical address), and 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).
- (3) The Operator's Emergency Action Response Plan (including "drive-to-maps" from public rights-of-way to each drill site).

B. The Operator shall notify the Inspector of any change to the name, address, and 24-hour phone number of the person(s) with supervisory authority over drilling or operations activities within one business day.

C. The Operator shall provide a copy of any “incident reports” or written complaints submitted to the Railroad Commission of any notice of violation from the Railroad Commission within 30 days after the Operator has notice of the existence of such reports or complaints.

D. Beginning on December 31st after each well is completed, and continuing on each December 31st thereafter until the Operator notifies the Inspector that the well has been abandoned and the site restored, the Operator shall submit a written report to the Inspector 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.

E. The Inspector shall perform an annual site inspection to insure that the Operator is conducting operations in compliance with the Gas Well Permit and the provisions of this Ordinance and to verify the accuracy of the information reported pursuant to this Section. The Operator shall pay an Annual Inspection Fee in the amount of Two Thousand Two Hundred Fifty (\$2,250.00) Dollars.

SECTION 11: BOND, IRREVOCABLE LETTER OF CREDIT

A. Prior to the issuance of a Gas Well Permit the Operator shall provide the 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, 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 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 Ordinance and the Town. The original bond shall be submitted to the Town Secretary with a copy of the same provided to the Inspector.
- (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. The Town shall be authorized to draw upon such letter of credit to recover any fines or penalties assessed under this Ordinance. Evidence of the execution of a letter of credit shall be submitted to the Town Secretary by submitting an original signed letter of credit from the banking institution, with a copy of the same provided to the Inspector.

B. The principal amount of any security instrument shall be Fifty Thousand dollars (\$50,000) for any single well. During reworking operations, the amount of the bond or letter of credit shall be maintained at Fifty Thousand dollars (\$50,000). If at any time after no less than a fifteen (15) day written notice to the Operator and a public hearing, the Town Board of Commissioners shall deem any Operator's bond or letter of credit to be insufficient, the Town

Board of Commissioners 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 well.

C. Whenever the Inspector finds that a default has occurred in the performance of any requirement or condition imposed by this Ordinance, 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 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 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 draw against any irrevocable letter of credit or bond to recover such amount due from the Operator. Upon receipt of such monies, the Town shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the 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 well and restore the drill site in conformity with the regulations of this Ordinance.

D. 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 civil action against the Operator, or by criminal action against the Operator, or by both such methods.

E. When the well or wells covered by said irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this Ordinance, and in conformity with all regulations of the Commission and 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.

SECTION 12: INSURANCE

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

A. *General Requirements applicable to all policies.*

- (1) The Town, its officials, employees, agents and officers shall be endorsed as an "Additional Insured" to all policies except Employers Liability coverage under the Operator's Workers Compensation policy.

- (2) All policies shall be written on an occurrence basis except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess or Umbrella Liability, which may be on a claims-made basis.
- (3) All policies shall be written by an insurer with an A-: VIII or better rating by the most current version of the A. M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the Town.
- (4) Deductibles shall be listed on the Certificate of Insurance and shall be on a “per occurrence” basis unless otherwise stipulated herein.
- (5) Certificates of Insurance shall be delivered to the Town of DISH, Town Secretary, 5413 Tim Donald Road, DISH, Texas 76247, evidencing all the required coverages, including endorsements, prior to the issuance of a Gas Well Permit.
- (6) All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the Town.
- (7) Any failure on part of the Town to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
- (8) Each policy shall be endorsed to provide the Town a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) days notice shall be acceptable in the event of non-payment of premium.
- (9) During the term of the Gas Well Permit, the Operator shall report, in a timely manner, to the Inspector any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- (10) Upon request, certified copies of all insurance policies shall be furnished to the Town.

B. *Standard Commercial General Liability Policy.* This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum Combined Single Limit of One Million dollars (\$1,000,000) per occurrence for Bodily Injury and Property Damage.

C. *Excess or Umbrella Liability.*

\$ 5,000,000 Excess, if the Operator has a stand-alone Environmental Pollution Liability (EPL) policy.

\$10,000,000 Excess, if the Operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If Seepage and Pollution coverage is written on a “claims made” basis, the

Operator must maintain continuous coverage and purchase Extended Coverage Period Insurance when necessary.

D. *Environmental Pollution Liability Coverage.*

- (1) Operator shall purchase and maintain in force for the duration of the Gas Well Permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least One Million dollars (\$1,000,000) per loss, with an annual aggregate of at least Ten Million dollars (\$10,000,000).
- (2) Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.
- (3) The Operator shall maintain continuous coverage and shall purchase Extended Coverage Period insurance when necessary. The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the Town.

E. *Control of Well.* The policy should cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the Operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents.

\$ 5,000,000 per occurrence/no aggregate, if available, otherwise an aggregate of Ten Million dollars (\$10,000,000).

\$ 500,000 Sub-limit endorsement may be added for damage to property for which the Operator has care, custody and control.

F. *Workers Compensation and Employers Liability Insurance.*

- (1) Workers Compensation benefits shall be Texas Statutory Limits.
- (2) Employers Liability shall be a minimum of Five Hundred Thousand dollars (\$500,000) per accident.
- (3) Such coverage shall include a waiver of subrogation in favor of the Town and provide coverage in accordance with applicable State and Federal laws.

G. *Automobile Liability Insurance.*

- (1) Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.

- (2) Coverage must include all owned, hired and not-owned automobiles.

H. *Certificates of Insurance.*

- (1) The company must be admitted or approved to do business in the State of Texas, unless the coverage is written by a Surplus Lines insurer.
- (2) The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO, or an equivalent policy form acceptable to the Town, with the exception of Environmental Pollution Liability and Control of Well coverage.
- (3) The policies must forth all endorsements and insurance coverage according to requirements and instructions contained herein.
- (4) The policies shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the Town. All policies shall be endorsed to read “THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT 30 DAYS ADVANCED WRITTEN NOTICE TO THE OWNER AND THE TOWN EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE 10 DAYS ADVANCE WRITTEN NOTICE IS REQUIRED”.
- (5) Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

SECTION 13: INDEMNIFICATION AND EXPRESS NEGLIGENCE PROVISIONS

Each Gas Well Permit issued by the Inspector 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 has or may have, or assigns may have, or claim to have, against the Town of DISH, and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, 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 Town of DISH, Texas, its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers 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 Town of DISH, Texas, its departments, agents, officers, servants, or employees, 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 Town of DISH, Texas, its departments, its officers, agents, servants, employees,

successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the Town, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the Town of DISH 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 NEGLIGENCE OF THE TOWN OF DISH 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 TOWN OF DISH, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE TOWN OF DISH, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE.

SECTION 14: ON SITE REQUIREMENTS

- A. *Abandoned Wells.* All wells shall be abandoned in accordance with the rules of the Railroad Commission; however, all well casings shall be cut and removed to a depth of at least ten feet (10') below the surface unless the surface owner submits a written agreement otherwise. Three feet (3') shall be the minimum depth. No structures shall be built over an abandoned well.
- B. *Blowout Prevention.* In all cases, blowout prevention equipment shall be used on all 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 drilling wells with adequate blowout preventors, flow lines and valves commensurate with the working pressures involved as required by the Commission.
- C. *Compliance.* The Operator shall comply at all times with all applicable federal, state and Town requirements.
- D. *Discharge.* No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including wastewater or brine from any gas operation or the contents of any container used in connection with any gas operation in, into, or upon any public right-of-way, alleys, streets, lots, storm drain, ditch or sewer, sanitary drain or any body of water or any private property in the Town.
- E. *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.

F. *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 and other hydrocarbon substances 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, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon 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.

G. *Electric Lines.* All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.

H. *Electric Motors.* Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the Town ordinances and the appropriate national codes.

I. *Emergency Response Plan.* Prior to the commencement of any gas or other hydrocarbons production activities, Operator shall submit to the Inspector an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of gas wells. Said plan shall use existing guidelines established by the Texas Commission on Environmental Quality, Department of Transportation and/or the Environmental Protection Agency.

J. *Equipment Painted.* All production equipment on the site shall be painted and maintained at all times, including pumping units, storage tanks, buildings and structures.

K. *Fire Prevention; Sources of Ignition.* Firefighting apparatus and supplies as approved by the Fire Department and required by any applicable federal, state, or local law shall be provided by the Operator, at the Operator's cost, and shall be maintained on the drilling site at all times during drilling and production operations. The Operator shall be responsible for the maintenance and upkeep of such equipment. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All well heads shall contain an emergency shut off valve to the well distribution line.

L. *Fresh Water Wells.*

- (1) It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located within two hundred (200') feet to any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.
- (2) The operator of a gas well shall provide the Inspector with a "pre-drilling" and "post-drilling" water analysis from any fresh water well within five hundred (500') feet of the gas well.
- (3) Within 180 days of its completion date, each gas well shall be equipped with a cathodic protection system to protect the production casing from external

corrosion. The Inspector may approve an alternative method of protecting the production casing from external corrosion.

M. *Gas Emission or Burning Restricted.* No person shall allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Commission. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by law or as permitted by the Commission, then such vent or open flame shall not be located closer than three hundred (300') feet from any building not used in operations on the drilling site and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.

N. *Grass, Weeds, Trash.* All drill and operation sites shall be kept clear of grass or weeds over 10 inches in height and combustible trash within a radius of one hundred (100') feet around any gas tank or tanks or producing wells.

O. *Hazardous Plan.* A Hazardous Materials Management Plan shall be on file with the Fire Department and the Inspector.

P. *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 public roads, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three hundred (300') feet.

Q. *Muffling Exhaust.*

- (1) Exhaust from any internal combustion engine, stationary or mounted on wheels, used in connection with the drilling of any 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 prevent the escape of obnoxious gases, fumes or ignited carbon or soot.
- (2) All formation fracturing operations shall be conducted during daylight hours unless the Operator has notified the Inspector that fracing will occur before or after daylight hours to meet safety requirements.

R. *Pits.* Lined earthen mud or circulating pits shall be used. Such pits and contents shall be removed from the premises and the drilling site within sixty (60) days after completion of the well.

S. *Private Roads and Drill Sites.* Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site itself shall be at least ten (10') feet wide, have an overhead clearance of fourteen (14') feet and shall be surfaced with crushed rock, gravel or ore and maintained to prevent dust and mud, such surfacing shall include application of dust suppressant. Further, an ample supply of dust suppressant shall be maintained on any private road used for access to the drill site so as to prevent dust during the lifetime use of the road. In particular cases these requirements governing surfacing of private roads may be

altered at the discretion of the Inspector after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind.

T. *Vehicle Routes.*

- (1) Vehicles associated with drilling and/or production in excess of three tons shall be restricted to such streets designated as either truck routes or commercial delivery routes by the Town wherever capable of being used. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated. Commercial delivery route means any street or highway so designated by the Town Board of Commissioners for the use by any commercial motor vehicle, truck-tractor, trailer, semi-trailer, or any combination thereof.
- (2) The Operator shall keep thoroughfares throughout the Town free from dirt, dust, mud or other debris deposited by vehicles involved in the well drilling or servicing or pipeline installation process. The Operator shall eliminate dirt, dust, mud or other debris accumulations within 2 hours of notification by the Town. If for safety or other reasons, the Town elects to perform the removal, the cost of such removal shall be paid by the Operator.

U. *Salt Water Wells.* No salt water disposal wells shall be located within the Town of DISH.

V. *Storage of Equipment.*

- (1) 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 well servicing operations are being conducted on the site.
- (2) 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, in the opinion of the Fire Department Chief or his designee, 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.
- (3) No refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises. This shall not be deemed to exclude a conventional gas separator or dehydrator.

W. *Storage Tanks.* Unless otherwise directed by the Commission, all tanks used for storage shall conform to the following:

- (1) Operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, flame arrester and pressure relief valve. All tanks must be enclosed within the fence required by Section 18 of this Ordinance. No tank battery shall be within one hundred (100') feet of any dwelling or other combustible structure.
- (2) All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the Fire Department Chief. The top of the tanks shall be no higher than eight (8') feet above the terrain surrounding the tanks. All storage tanks shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be a minimum of three feet (3') in height and one and one-half (1 ½) times the contents of the largest tank in accordance with the Fire Code, and buried at least one foot (1') below the surface. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tank.
- (3) 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 twenty-five (25') feet from any public right-of-way or property line. 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.
- (4) No meters, storage tanks, separation facilities, or other aboveground facilities, other than the well head and flow lines, shall be placed in a floodway or the 100-year floodplain.
- (5) Tanks must be at least one hundred (100') feet from any residence, religious institution, hospital building, school, cemetery, historical site or combustible structure.
- (6) To the extent that it is technically feasible, all storage tanks, separators and compressors serving multiple wells shall be kept as a group on a single site.

X. *Tank Battery Facilities.* Tank battery facilities shall be equipped with a remote foam line and a lightning arrestor system.

Y. *Surface Casing.* Surface casing shall be run and set in full compliance with the applicable rules and regulations of the Commission.

Z. *Valves.* Each well must have a shutoff valve to terminate the well's production. The Fire Department shall have access to the well site to close the shut-off the valve in an emergency.

AA. *Waste Disposal.*

- (1) Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into a lined earthen pit. All disposals must be in accordance

with the rules of the Commission and any other appropriate local, state or federal agency.

- (2) 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.
- (3) All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the State, this Ordinance and any other applicable ordinance of the Town.

BB. *Watchman.* The Operator must keep a watchman or security personnel on site during the drilling or re-working of a well when other workmen are not on the premises.

CC. *Restroom Facilities.* To meet the requirements as stated by OSHA and other appropriate regulatory agencies.

DD. *Work Hours.* Site development, other than drilling, shall be conducted only between 8 a.m. and 8 p.m. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to between the hours of 8 a.m. to 8 p.m. except in cases of fires, blowouts, explosions and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. The hours set forth in this section may be increased by the Town Board of Commissioners where an applicant can demonstrate that such increase will not disturb the surrounding residents.

SECTION 15: NOISE

A Gas Well Permit holder shall be subject to the following noise restrictions:

- (1) No drilling producing or other operations shall produce a sound level greater than 78 dB(a) when measured at a distance of three hundred (300') feet from the production equipment in question. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions, four (4') feet above ground level, when measured at a distance of three hundred (300') feet from the production equipment. A maximum sound level of 85 dB(a) shall apply to formation fracturing when measured at a distance of three hundred (300') feet from the production equipment in question.
- (2) No person shall operate or permit to be operated in connection with the operation of a producing well any engine, compressor or motor-driven machinery of any type which creates a sound level greater than 65dB(a) when measured at a distance of three hundred (300') feet from the well site. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions measured at a distance of three hundred (300') feet from the well site.

- (3) Sound level measurements shall be made with a sound level meter conforming, at a minimum, to the requirements of the American National Standards Institute.
- (4) If sound levels exceed the dB(a) levels cited in (1) and (2) of this subsection, the Inspector may require sound reducing mufflers.

SECTION 16: WELL SETBACKS

A. It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:

- (1) Within twenty-five (25') feet from any outer boundary line; or
- (2) Within twenty-five (25') feet from any storage tank, or source of ignition; or
- (3) Within seventy-five (75') feet of any public street, road, highway or future street, right-of-way or property line; or
- (4) Within one hundred (100') feet of any building accessory to, but not necessary to the operation of the well; or
- (5) Within two hundred (200') feet to any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore; or
- (6) Within one thousand (1000') feet from any building used, or designed and intended to be used, for human occupancy.

B. The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any object listed in subsection A above.

C. The distances set out in subsection A above may be reduced at the discretion of the Town Board of Commissioners, but never less than five hundred (500') feet from any dwelling or any other building used, or designed and intended to be used, for human occupancy without the unanimous consent of the property owners within a five hundred (500') foot radius around said well and the unanimous vote of the Town Board of Commissioners. For protection of the public health, safety and welfare, the Town Board of Commissioners may impose additional requirements for a reduction of such distance. The reduction of the distance requirement for fresh water wells is subject to the Railroad Commission regulations and any other state or federal requirements.

SECTION 17: INSTALLATION OF PIPELINES ON, UNDER OR ACROSS PUBLIC PROPERTY

A. The Operator shall apply to the Town for a license agreement for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines on, over, under, along or across the Town streets, sidewalks, alleys and other Town property, so long as production or operations may be continued under any Gas Well Permit issued pursuant to this

Ordinance. The decision to authorize a license agreement in accordance with this section shall be in the sole discretion of the Town Board of Commissioners.

B. The Operator shall:

- (1) 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.
- (2) Furnish to the Inspector of the Town a plat showing the location of such pipelines.
- (3) Construct such lines out of pipe in accordance with the Town ordinances and regulations properly cased and vented if under a street.
- (4) Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed when operations for the drilling of the well were first commenced.

C. No Gas Well Permit shall be issued for any well to be drilled within any of the streets or alleys of the Town and/or projected streets or alleys shown by the current comprehensive plan of the Town, and no street or alley shall be blocked or encumbered or closed due to any exploration, drilling or production operations unless prior consent is obtained from the Inspector or the Town Board of Commissioners, where required by ordinance. Where permitted, any consent from the Inspector shall be temporary in nature and state the number of hours and/or days that any street or alley may be blocked, encumbered or closed.

D. Notwithstanding anything contained in this section to the contrary, all pipelines permitted within the Town of DISH shall be required to comply with the pipeline regulation ordinance of the Town.

SECTION 18: SCREENING AND SIGNAGE

A. *Fences.* Fences shall not be required on drill sites during initial drilling, completion or re-working operations as long as 24-hour on-site supervision is provided. Within 30 days after production has been established, all operation sites shall be completely enclosed by a fence meeting the specifications set forth in Subsection B of this section, being a minimum of eight (8') feet but not to exceed ten (10') feet in height. In addition to fences, 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.

B. *Fence specifications.* Unless alternate fence material is approved by the Town Board of Commissioners, all fences shall consist of at least fifty percent masonry material (no prefabricated material) with the remainder consisting of wrought iron or other like material approved by the Town Board of Commissioners. All fences used to enclose in whole or in part any drilling or production site shall be constructed in accordance with standard engineering practices and be of a design compatible with the facilities, buildings and structures on and adjacent to the site.

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

- (1) Each gate shall be not less than twelve (12') feet wide and be composed of two (2) gate doors, each of which is not less than six (6') feet wide, or one (1) sliding gate door not less than twelve (12') feet wide. If two (2) gate doors are used, gates shall latch and lock in the center of the span;
- (2) The gates shall be of wrought iron construction that meets the applicable specifications, or of other approved material that, for safety reasons, shall be at least as secure as a chain link fence;
- (3) The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site; and
- (4) Operator must provide the Fire Department 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.

D. *Signs.*

- (1) A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected. 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:
 - (a) Well name and number;
 - (b) Name of Operator;
 - (c) The emergency 911 number; and
 - (d) Telephone numbers of two (2) persons responsible for the well who may be contacted in case of emergency.
- (2) Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by the Fire Department Chief. 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, well and lease designations required by the Commission.

SECTION 19: LANDSCAPING

A. Landscaping and irrigation shall be required along all street frontages of the well site with suitable screening shrubs that complement the architectural character of the surrounding neighborhood. Screening shrubs shall be installed completely around the well site and all

required fences and be sufficient to screen from view the structures sought to be screened. Screening shrubs shall be a minimum of three feet in height at planting, have the potential to grow to a mature height of a minimum of six feet and must have an installed irrigation system that provides total water coverage to all plant materials. The vegetation shall be kept in an attractive state and in good condition at all times by the applicant or Operator.

B. All landscape and irrigation plans shall be submitted concurrently with the Gas Well permit application, to the Town Board of Commissioners for approval.

C. Notwithstanding the requirements of this Section, the Operator may petition the Town Board of Commissioners to toll the required landscaping installation until such time as the Board of Commissioners, in its sole discretion, after written notice to the Operator and a public meeting, may determine that the required landscaping installation is necessary due to development around the drill site, change in circumstances, or other factors which the Board of Commissioners deems appropriate. The failure of the Operator to install the required landscaping in compliance with this Section may result in the revocation of the gas well permit in accordance with Section 9 hereof; or in the alternative, the Town may elect to draw from the required bond or letter of credit to install or direct the installation of the required landscaping.

SECTION 20: CLEANUP AND MAINTENANCE

A. *Cleanup after well servicing.* After the 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 Fire Department Chief and the 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 within twenty-four (24) hours, the Town shall have the right to contact the Commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.

C. *Free from debris.* The property on which a well site is located shall at all times be kept free of 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. Burial of debris will not be allowed.

D. *Painting.* All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the 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, gray and unobtrusive shades of green, blue and brown, or other neutral colors approved by the Inspector.

E. *Blowouts.* In the event of the loss of control of any well, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this Ordinance and shall notify the Inspector as soon as practicable. The Inspector shall certify in writing, briefly

describing the same, to the Town Secretary. If the 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 well, the Inspector may then employ any 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 Inspector deems necessary to regain control of such well. The Town shall then have a valid lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the Town pursuant to such action of the Inspector in gaining control of said well.

SECTION 21: PLUGGED AND ABANDONED WELLS

A. *Surface requirements for plugged and abandoned well.* Whenever abandonment occurs pursuant to the requirements of the Commission, the Operator so abandoning shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this Ordinance.

B. *Approval after abandonment.* Abandonment shall be approved by the Inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the 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 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 Ordinance.

C. *Abandoned well requirement.* The Operator shall furnish the following at the discretion of the Inspector:

- (1) A copy of the approval of the Commission confirming compliance with all abandonment proceedings under the state law; and
- (2) A 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.

D. *Abandonment requirements prior to new construction.* All abandoned or deserted 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 well.

SECTION 22: 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 Ordinance, then the cost for such services of such technical advisor(s) shall be assessed against and paid for by such Operator in addition to any 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 Board of Commissioners.

SECTION 23: SEISMIC SURVEY PERMIT REQUIREMENTS

A. A permit shall be required for seismic surveys. All seismic survey permit applications shall be submitted to the Town Secretary for processing and issuance. The seismic survey shall not begin prior to the issuance of a seismic survey permit from the Town. A permit application shall include the following:

- (1) Operator/applicant name, phone number, fax number, physical address, and, if possible, email address; if the operator is a corporation, the state of the incorporation, and if the operator is a partnership, the names and addresses of the general partners shall be provided.
- (2) Detailed mapping of location and extent of seismic survey.
- (3) Date and time the seismic survey will be conducted.
- (4) Detailed explanation of the seismic survey method to be used on site.
- (5) Date and time the seismic survey will be completed.
- (6) If the seismic survey is permitted by the Town Board of Commissioners to be conducted in any Town owned right-of-way then the operator must reimburse all costs to the Town for any damages associated with the seismic survey.
- (7) The permit fee for a seismic survey in the Town shall be Five Hundred (\$500.00) Dollars.
- (8) Under no circumstances may explosive charges, including, but not limited to, the use of dynamite, be used in any way related to the preparation and/or operation of conducting a seismic survey.

B. Upon demonstrated compliance with the provisions of subsection A of this section, the Town Secretary shall issue a seismic survey permit covering the proposed activities set forth in the application. The seismic survey permit shall be valid for dates and times stated in the application.

SECTION 24: PENALTY

A. It shall be unlawful and an offense for any person to do the following:

- (1) Engage in any activity not permitted by the terms of a Gas Well Permit issued under this Ordinance.
- (2) Fail to comply with any condition set forth in a Gas Well Permit issued under this Ordinance; or.
- (3) Violate any provision or requirement set forth under this Ordinance.

B. Any violation of this Ordinance shall be punished by a fine of not more than \$2,000.00 per day, subject to applicable State law. Each day that a violation exists shall constitute a separate offense. No notice of default required by this Ordinance shall be a precondition to immediate criminal enforcement due to a violation of this Ordinance.

SECTION 25: PROVISIONS CUMULATIVE

This ordinance shall be cumulative of all provisions of the ordinances of the Town of DISH, Texas, as amended, 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 26: PROVISIONS SEVERABLE

That it is hereby declared to be the intention of the Town Board of Commissioners that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the Town Board of Commissioners without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 27: SAVINGS CLAUSE

That all rights or remedies of the Town of DISH, Texas, are expressly saved as to any and all violations that have accrued at the time of the effective date of this ordinance of the provisions of any ordinances affecting gas exploration, production and development that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 28: PUBLICATION IN PAMPHLET FORM

The Town Secretary of the Town of DISH 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 29: PUBLICATION IN OFFICIAL NEWSPAPER

The Town Secretary of the Town of DISH is hereby directed to publish the caption and penalty clause of this ordinance at least once in the official newspaper of the Town of DISH.

SECTION 30: EFFECTIVE DATE

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 THE 20th DAY OF MARCH, 2006.

TOWN OF DISH

By: _____
Mayor

ATTEST:

Town Secretary