

ORDINANCE NO. 2004-2

AN ORDINANCE OF THE TOWN OF ANNETTA NORTH REGULATING SUBSURFACE PETROLEUM AND NATURAL GAS DRILLING WITHIN THE TERRITORIAL LIMITS OF THE CITY ORIGINATING OUTSIDE THE TERRITORIAL LIMITS OF THE CITY; ESTABLISHING PROCEDURES FOR THE ISSUANCE OF SUBSURFACE DRILLING PERMITS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A PUBLICATION CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of Aldermen has previously adopted comprehensive zoning regulations governing petroleum and natural gas drilling operations within the territorial limits of the City; and

WHEREAS, the Board of Aldermen desires to supplement such regulations to protect the health, safety and welfare of the Municipality by ensuring that directional or slant well drilling operations originating outside the territorial limits of the Town and continuing into the territorial limits of the Town to exploit the subsurface natural gas and/or petroleum reservoirs within the Town are subject to reasonable review and supervision by the City; and

WHEREAS, the regulations imposed on directional or slant well drilling within the territorial limits of the Town shall be administrative in nature and shall not subject such operators to any greater amount of regulation than operators conducting drilling operations within the territorial limits of the City.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF ANNETTA NORTH, TEXAS:

Section 1. Purpose

The Board of Aldermen declares that the enactment of this ordinance shall serve to regulate subsurface natural gas and petroleum drilling originating outside the territorial limits of the Town and continuing into the territorial limits of the City. The Council desires to regulate such activity taking place within the territorial limits of the Town only to protect the health safety and welfare of the Town of Annetta North . The regulations imposed by this Ordinance shall not be more stringent than those imposed on petroleum and natural gas exploration originating entirely within the territorial limits of the City.

Section 2. Definitions

A. The Definitions contained in the Zoning Ordinance, as it may be amended, of the Town of Annetta North are hereby incorporated herein as if copied in full.

B. The following definitions shall apply to the provisions of this Ordinance:

"Directional or Slant Well Drilling" means the controlled directional drilling when the bottom of the well bore is directed away from the vertical position.

Section 3. Application Required.

Every proposal for subsurface extraction of petroleum or natural gas within the territorial limits of the Town through directional or slant well drilling commencing outside the territorial limits of the Town shall be filed with the office of the Town Secretary. An application may be filed by the owner of the property, the owner of the mineral rights, the well operator, or his authorized agent.

Section 4. Fee required.

Every application shall be accompanied by the appropriate filing fee as provided in the Schedule of Fees and Charges adopted by the Board of Aldermen.

Section 5. Application Procedure.

A. An application for a Subsurface Drilling Permit ("Permit") shall be accompanied by a site plan which, along with the application, will become a part of the Permit, if approved. The accompanying site plan shall provide the following information:

1. Data describing all processes and activities involved with the proposed directional or slant well drilling operation;
2. The location, depth and distance of the proposed directional or slant well drilling operation; and
3. The location of all municipal public rights-of-way beneath which such directional or slant well drilling operation is proposed;

B. An application for a Permit under this Ordinance shall include the following information:

1. The date of the application.
2. The name and signature of the applicant.
3. The address of the applicant.
4. The name, address, and phone number of persons to be notified in case of an emergency.
5. The names of all mineral rights owners within the territorial limits of the Town through which subsurface directional or slant well drilling operations may take place.
6. An accurate legal description of the property, the lease area, and the drill site.
7. A copy of approved Texas Railroad Commission Form 1 for the well shall be furnished to the Town Secretary prior to the beginning of actual directional or slant well drilling operations within the territorial limits of the City.

Section 6. Time Limit

A Permit issued under this Ordinance shall be valid for a period of eighteen (18) months from the date of issuance and shall expire unless drilling operations or extraction of petroleum or natural gas is substantially underway.

Section 7. Revocation

A permit issued pursuant to this Ordinance may be revoked for either of the following reasons:

1. The Permit was obtained by fraud or deception; or
2. One or more the conditions of the Permit has been violated since the date of issuance.

Section 8. Transfer of Permit

Permits granted pursuant to this Ordinance are non-transferrable.

Section 9. Operator's Agent

Every Operator subject to the requirements of this Ordinance shall designate an

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

Section 10. Bonds and Insurance

If an application for a Permit is approved the following documents must be submitted to the Town prior to issuance of the Permit:

1. A surety bond (Attachment "A"), irrevocable letter of credit approved in the amount of \$50,000 (Attachment "B"), or cash escrow shall be filed with the Town prior to the issuance of a Permit pursuant to this Ordinance. The bond shall be issued by an insurance company authorized to issue bonds in the State of Texas by the Texas State Board of Insurance. The bond, in favor of the City, shall be surety that the applicant will comply with all of the terms, conditions, and requirements of this Ordinance and any permit issued pursuant to the application. Further, the bond is surety that the applicant will repair any damage to Town thoroughfares or public or private property caused by the directional or slant well drilling operations conducted within the territorial limits of the Town based on determination of damage by the City's Director of Public Works. The bond or letter of credit must remain in force until 90 days after the well starts producing.
2. In addition, the applicant shall file with the Town a copy of all insurances in the amounts required for one drilling in Town.

Section 11. Protection of Ground Water

Each Permit holder shall take special care that no ground water supply of the Town of Annetta North is contaminated by the directional or slant well drilling operations conducted within the territorial limits of the City. All rules of the Federal Government, the State of Texas, and the Town of Annetta North regarding protecting natural resources must be strictly followed.

Section 12. Abandonment of Wells

Upon abandonment of a well or well site outside the territorial limits of the Town from which well or well site directional or slant well drilling into the territorial limits of the Town has occurred, the Operator of such well or well site, within two months, shall plug such well in accordance with the Texas Railroad Commission standards to ensure the safety and stability of the subsurface area within the territorial limits of Town through which such drilling has occurred.

Section 13. REPEALER CLAUSE

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this ordinance. Any cause of action accruing prior to the passage of this ordinance shall continue as if this ordinance was not passed or any other ordinance had not been repealed.

Section 14. SEVERABILITY CLAUSE

That it is hereby declared that the sections, articles, subsections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph, subsection, article, or section of this ordinance shall be declared void, ineffective, or unconstitutional by a valid judgment or final decree of a court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not effect any of the remaining phrases, clauses, sentences, paragraphs, subsections, articles, or sections of this ordinance since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective, or unconstitutional phrase, clause, sentence, paragraph, subsection, article, or section.

Section 15. SAVING CLAUSE

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any other ordinances 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 16. PENALTY CLAUSE

Any person, firm, association of persons, company, corporation, or their agents, servants, or employees violating or failing to comply with any of the provisions of this ordinance shall be fined upon conviction not less than one dollar (\$1.00) nor more than two thousand (\$2,000.00) and each day shall constitute a separate and distinct offense.

Section 17. ENGROSSMENT AND ENROLLMENT CLAUSE.

The City Secretary of the City is hereby directed to engross and enroll this ordinance by copying the caption, penalty clause (if any), publication clause and

effective date clause in the minutes of the City Council and filing the ordinance in the ordinance records of the City.

Section 18. PUBLICATION CLAUSE.

The City Secretary is hereby directed to post or publish in the official newspaper of the City, the caption, penalty clause (if any), publication clause and effective date clause of this ordinance in one issue of the official newspaper of the City, provided that the official newspaper is a weekly paper, as authorized by Section 52.011 of the Texas Local Government Code.

Section 19. EFFECTIVE DATE

This ordinance shall be effective after final passage and publication as required by law.

PASSED AND APPROVED THIS THE 9th day of February, 2004.

MAYOR

ATTEST:

City Secretary