Complete Ordinance
in Original File
~~page 1-29~~
Feb: 1991

AN ORDINANCE

NO. 291

AN ORDINANCE REGULATING THE DRILLING AND OPERATION OF OIL OR GAS WELLS WITHIN THE CORPORATE LIMITS OF THE CITY OF Frankston , TEXAS: PROHIBITING THE DRILLING OF OIL OR GAS WELLS WITHOUT A PERMIT: PROVIDING A PENALTY FOR VIOLATION OF SUCH ORDINANCE, A SEVERABILITY AND WAIVER CLAUSE, AND AN EFFECTIVE DATE, DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRANKSTON , TEXAS, THAT:

Section 1. TITLE

1.1 The title of this Ordinance shall be the "City of FRANKSTON Oil and Gas Well Ordinance."

2.1 The City Council of the City of FRANKSTON , Texas, finds that there has been and there is a likelihood of drilling and production operations for oil and gas within the corporate limits of the City of FRANKSTON requiring that operations for the drilling and production of oil and gas within such area be regulated because of the threat to human life by hydrogen sulfide in lethal concentrations found in oil and gas reserves underlying the FRANKSTON Field area, fire hazards created by such operations, as well as the menace of unsanitary conditions, contaminated water supply, and other similar

AN ORDINANCE

NO. 291

AN ORDINANCE REGULATING THE DRILLING AND OPERATION OF OIL OR GAS WELLS WITHIN THE CORPORATE LIMITS OF THE CITY OF Frankston , TEXAS: PROHIBITING THE DRILLING OF OIL OR GAS WELLS WITHOUT A PERMIT: PROVIDING A PENALTY FOR VIOLATION OF SUCH ORDINANCE, A SEVERABILITY AND WAIVER CLAUSE, AND AN EFFECTIVE DATE, DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRANKSTON , TEXAS, THAT:

Section 1. TITLE

1.1 The title of this Ordinance shall be the "City of FRANKSTON Oil and Gas Well Ordinance."

2.1 The City Council of the City of FRANKSTON , Texas, finds that there has been and there is a likelihood of drilling and production operations for oil and gas within the corporate limits of the City of FRANKSTON requiring that operations for the drilling and production of oil and gas within such area be regulated because of the threat to human life by hydrogen sulfide in lethal concentrations found in oil and gas reserves underlying the FRANKSTON Field area, fire hazards created by such operations, as well as the menace of unsanitary conditions, contaminated water supply, and other similar

threats to the lives, property, health, safety and welfare of the public in general, for which the police power of the State of Texas as delegated to the City of FRANKSTON is to be and is hereby invoked in aid of the enforcement of this Ordinance. It is the purpose and intent of the City Council to provide, solely within the exercise of the police power of the State of Texas as delegated to the City of FRANKSTON and not as a regulation for economic or conservation purposes, that no oil or gas well shall be drilled, operated, or produced in a manner which would be inconsistent with either the foregoing purposes or any other purposes set forth herein.

Section 3. DEFINITIONS

3.1 When used in this Ordinance and for the purpose of and under this Ordinance, the words set forth below shall have the meanings set forth by each such word.

(a) The word "person" shall include both the singular and plural; and shall mean and include any person, individual, firm, partnership association, corporation, club, society, co-operative, trust, municipal corporation, or political subdivision whatsoever.

(b) The word "well" shall include and mean any hole or holes, bore or bores, to any sand, formation, horizon, strata or depth, which is or are drilled, bored, sunk, dug, or put down for the purpose of either exploring for or

the existence of any oil and gas, or either of them, or the production of oil or gas or oil and gas.

(c) The word "oil" shall mean any liquid hydrocarbon, regardless of gravity, capable of being produced in liquid form from a well by ordinary production methods but is not the result of the condensation of gas after it leaves the reservoir.

(d) The word "gas" shall mean natural gas with all of its constituent elements, including but not limited to, gasoline, condensate, distillate, pentanes, butanes, propane, ethane, and methane.

(e) The expression "oil well" shall mean any well which produces one barrel or more of oil to each 100,000 cubic feet of gas.

(f) The expression "gas well" shall mean a well which produces gas but no oil or gas and less than one barrel of oil to each 100,000 cubic feet of gas.

(g) The expression "Drilling Unit" shall mean the land to which oil or gas produced from a well drilled, operated, and produced in accordance with the provisions of this Ordinance and the cost thereof are hereby attributed. The Drilling Unit for each well shall be designated by the person making the application for a permit to drill, operate, and produce such well. Unless and until a proration unit

is accepted by the well by the Railroad Commission of Texas in accordance with it rules, then such Drilling Unit shall be not more than three times as long as wide: provided such Drilling Unit may have been established on all four sides of such Drilling Units prior to the establishment thereof and less than such minimum amounts of contiguous land is available to include in such Drilling Unit. No Drilling Unit shall be established, and no well shall be drilled, operated or produced thereon in a manner or at a location, which shall jeopardize human life by escaping hydrogen sulfide gas, constitute a fire or safety hazard to the public in general, a hazard or source of pollution to the water or sanitation systems or supply of the City FRANKSTON , a direct and immediate impediment, threat, or nuisance to residential, commercial, or public development or activities, or other similar threats to the lives, property, health, or safety of the public in general. If the proration unit is established for a well by the Railroad Commission of Texas in accordance with the provisions of the Mineral Interest Pooling Act of the State of Texas or otherwise, the Drilling Unit for such well shall be revised to be coterminous with such proration unit; A Drilling Unit for a well to be located within the corporate limits of the City of FRANKSTON , Texas, may contain

land situated both within and without the corporate limits of the City of FRANKSTON , Texas.

(h) The expression "residential area" shall mean attached and unattached single family, multi-family dwellings, apartments, townhouses, condominiums, duplexes, mobile home parks and any other area within the corporate limits of the City of FRANKSTON dedicated or committed to residential use.

Section 4. UNLAWFUL TO DRILL OR OPERATE WITHOUT A PERMIT

4.1 It shall be unlawful and a violation of this Ordinance for any person acting either for himself or as agent, employee, independent contractor or servant of any other person, to commence to drill, to drill, to operate, or to produce any oil or gas well within the corporate limits of the City of FRANKSTON , Texas, or to work upon or assist in any way the driling, operation, or production of any such well unless a permit for the drilling and operation of such well has been issued and is then in effect in accordance with the provisions of this Ordinance. No vested property rights shall be created by the issuance of any such permit.

4.2 No permit shall be issued for an oil well to be drilled or operated on any Drilling Unit which includes land already assigned to and made a part of a Drilling Unit for

an oil well for which a permit is then in effect.

4.3 No permit shall be issued for a gas well to be drilled or operated on any Drilling Unit designated for a gas well which includes land already assigned to and made a part of a Drilling Unit for a gas well for which a permit is then in effect.

4.4 No permit shall be issued for either an oil or gas well or an oil and gas well located, drilled or completed, or to be located, drilled or completed in or under a residential area within the corporate limits of the City of FRANKSTON , Texas.

4.5 A permit shall authorize the person making application therefor to drill, complete in one or more sands or horizons, rework, deepen, recomplete, produce, and in all other ways operate a well on the Drilling Unit described in such application.

Section 5. APPLICATION FOR PERMIT

5.1 Any person desiring to secure a permit to drill, complete, and operate an oil or gas well within the corporate limits of the City of FRANKSTON , Texas, shall make application therefor to the City Council of the City of FRANKSTON , Texas, in the Office of the City Secretary.

5.2 An application for a permit shall be in writing,

signed and sworn to by the person applying therefor, or some other person duly authorized to sign for the person applying therefor, and shall contain the following information:

(a) Date of application.

(b) Name and address of the person making application and, if the person making application is a corporation, the state of incorporation, and if the person making application is a partnership, the names and addresses of the general partners.

(c) A description of the proposed Drilling Unit and the exact location of the well.

(d) The type of the well, whether oil or gas, or both, and the proposed depth of the well.

(e) The proposed complete casing program of the well.

(f) The exact number of acres of land contained in the Drilling Unit and the exact number of acres of such land which the person making application owns or otherwise has control of the right to drill for and produce the oil and gas contained in and under such land.

(g) The exact location of any tank batteries or any other storage facilities for oil or other liquids to be produced from the proposed well.

5.3 Each application for a Drilling Permit shall be accompanied by the following:

(a) A plat of the proposed Drilling Unit with the well location designated thereon.

(b) Signed statements or agreements from the owners of dwellings and structures used for human occupancy which are situated within 300 feet of the proposed well location and have not been abandoned, consenting to the drilling of such well at such location.

(c) A certified check payable to the City of FRANKSTON , Texas, in the amount of $200.00 which shall constitute the application fee and shall not be returned to the person making application for such permit.

(d) An executed copy of Railroad Commission of Texas Form Number W-1 and all orders, plats and other information relating to any proration unit established or proposed for the proposed well, if any.

(e) A memorandum copy or certificate of a policy or policies of public liability and property damage insurance, issued by an insurance company or companies authorized to do business in the State of Texas, assuring all persons, firms, corporations and political subdivisions against loss by liability imposed by law by reason of any personal injury

or death to any person other than the person making such application or his employees, or by reason of any such loss or damage to property of any person, firm, corporation, or political subdivision other than the person making application or his employees for injury resulting from drilling and operations pursuant to such permit. The amount of such policy or policies of insurance for bodily injury or death of one person shall not be less than One Hundred Thousand Dollars ($100,000.00), and for any one accident, not less than Three Hundred Thousand Dollars ($300,000.00). The amount of such policy or policies for damage to property shall not be less than One Hundred Thousand Dollars ($100,000.00). Each policy of insurance shall contain a provision obligating the insurer to give the City Council of the City of FRANKSTON written notice of cancellation not less than ten (10) days prior to the date of cancellation. Applicant shall, upon request of the City Council of the City of FRANKSTON , Texas, submit the original or a certified copy of any policy for inspection at any time. Irrespective of the requirements as to insurance to be carried, the insolvency, bankruptcy or failure of any insurance company carrying insurance for any applicant or permittee hereunder, or the failure of any such company to pay claims accruing

shall not be held to waive any of the provisions of this Ordinance. Failure to keep said policy or policies in full force and effect, in accordance with the terms hereof, shall be a violation of this Ordinance.

(f) A signed and sworn to statement by the person applying for the permit that he is aware of, has knowledge of, understands and is in compliance with Rule 051.02.02.036, Oil, Gas or Geothermal Resource Operations in HYDROGEN SULFIDE areas, of the Railroad Commission of Texas' Rules Having Statewide General Application to Oil, Gas and Geothermal Resource Operations within the State of Texas, and shall file with the application a copy of the Contingency Plan required in paragraph (c)(6)(C)(9) of that Rule.

Section 6. NOTICE OF APPLICATION

6.1 The person making application for a Drilling Permit hereunder shall give notice of such application to all known lessees, mineral estate owners, and all other persons who own or otherwise control the right to drill for and produce oil and gas contained in and under the lands situated in the Drilling Unit. Such notice shall be made by mailing to the last known address, if any, of each such person and publishing one time in the official newspaper of the City of FRANKSTON , Texas, the following notice:

"Notice is hereby given that_____,
(name of person making application)
acting under and pursuant to the terms and provisions of the City of FRANKSTON Oil and Gas Well Ordinance, being An Ordinance of the City of FRANKSTON, Texas, and any and all ordinances amendatory thereto, did on the _____day of _____, 19___, file with the City Secretary of the City of FRANKSTON, Texas, an application for a permit to drill, complete, and operate an oil (or gas) well upon _____,
(description of lot containing proposed location)
and that a hearing on such application shall be conducted in the City Council Room of the City of FRANKSTON, Texas, at _____o'clock, _____.M. on the _____day of _____, 19___."

Section 7. HEARING ON APPLICATION

7.1 Except as provided for in Section 8.2 hereof, prior to the issuance of a Drilling Permit, the City Council and/or City Manager of the City of FRANKSTON, Texas, shall conduct a public hearing at which all interested persons shall be permitted to be present and to present evidence relative to such Drilling Permit and the well to be drilled pursuant thereto. Such hearing shall be conducted within thirty (30) days after the date of the application for such Permit but

not prior to the seventh (7th) day following the making of the notices provided for in Section 6.1 of this Ordinance.

Section 8. ISSUANCE OF DRILLING PERMIT

8.1 The Mayor, by direction of the City Council of the City of FRANKSTON , Texas, is hereby authorized and directed to issue a Drilling Permit to the person making application therefor when and if, but only when and if, the following requirements have been met:

(a) The application for such permit is in due form with all proper attachments.

(b) All owners of dwellings and structures used for human occupancy situated within 300 feet of the proposed well location which have not been abandoned, have consented to the drilling of the proposed well.

(c) The notices provided for in Section 6.1 of this Ordinance have been given.

(d) The hearing provided for in Section 7.1 of this Ordinance has been conducted.

(e) If the application is for an oil well, there is no land included in the proposed Drilling Unit which is at such time already assigned to and made a part of a Drilling Unit for an oil well for which a Drilling Permit is then in effect, or if the application is for a gas well, there is no land included in the proposed Drilling Unit which is

at such time already assigned to and made a part of a Drilling Unit for a gas well for which a Drilling Permit is then in effect.

(f) The person making application for such permit owns or otherwise controls, under oil and gas leases or otherwise, the rights to drill for and produce the oil and gas contained in and under a greater percentage of the land contained in the proposed Drilling Unit than does any other person filing a competing application for a permit to drill a well in such Drilling Unit in accordance with the provisions of Section 9.1 of this Ordinance.

(g) The bonds provided for in Section 15.1 of this Ordinance have been filed.

(h) The proposed Drilling Unit and the location of the well thereon conform to the requirements therefor which are set forth in Section 3.1(g) of this Ordinance.

(i) A copy of the Contingency Plan has been filed with the City Secretary of the City of FRANKSTON, Texas, by the person applying for the Permit.

The City Council shall deny any application or applications which do not meet the foregoing requirements.

8.2 The provisions of Section 6.1, 7.1 and 8.1 hereof to the contrary notwithstanding, if the person making application for a Drilling Permit presents evidence satisfactory to the

City Council that such person owns or otherwise controls, under oil or gas leases or otherwise, the rights to drill for and produce the oil and gas contained in and under all the land included within the Drilling Unit proposed in such application, other than streets or other land owned or controlled by the State of Texas, County of ANDERSON , the City of FRANKSTON or any other political subdivision when and if the requirements set forth in Subsections (a), (b), (e), (g), (h) and (i) of Section 8.1 hereof have been met, the City Council of the City of FRANKSTON , Texas, is hereby authorized to waive the notice and hearing requirements set forth in Section 6.1 and 7.1 hereof, and if such requirements are waived, such Mayor is authorized and directed by the City Council to issue a Drilling Permit forthwith to such person.

8.3 The Mayor of the City of FRANKSTON , Texas, is hereby authorized and directed to amend any Drilling Permit issued or validated in accordance with the provisions of this Ordinance on application therefor to the City Council by the person holding such Permit. Such Permit may be amended in any respect, including without limitation, to alter or remove any conditions relative thereto, alter the acreage attributable to the Drilling Unit established thereby, change the Drilling Unit established thereby to an oil well or gas

well Drilling Unit, provide that an additional well or wells may be drilled, completed, and operated pursuant to such Permit, or provide that such Permit shall establish both an oil well and a gas well Drilling Unit for the well drilled and completed pursuant to such Permit. Any such amendment shall be effective after, but only after, the Mayor finds that notice of the application therefor has been given in the manner provided for in Section 6.1 hereof, a hearing has been held as provided for in Section 7.1 hereof, such amendment is consistent with the purposes of this Ordinance, and, if the applied-for amendment involves an increase in the area covered by the Drilling Unit, the provisions hereof relative to the limitations thereof are not violated and that the person applying for such amendment owns or otherwise controls the right to drill for and produce the oil and gas contained in and under more than one-half of the land to be added to such Drilling Unit. If the person making application for such amendment owns or otherwise controls the rights to drill for and produce the oil and gas contained in and under all the lands included in such Drilling Unit, both before and after such amendment, the Mayor is authorized to waive the foregoing requirements for notice and hearing. The Mayor of the City of FRANKSTON , Texas, on his own motion, is authorized to call a hearing for the purpose of amending

any Drilling Permit issued or validated in accordance with the provisions of this Ordinance. Such amendment shall be effective after, but only after, the Mayor has found that notice of such proposed amendment has been given in the manner provided for in Section 6.1 hereof, a hearing has been held as provided for in Section 7.1 hereof, such proposed amendment to such Drilling Permit is required because of changes in the facts and conditions relative to such Permit since the time of original issuance thereof and such amendment is consistent with the purposes of this Ordinance.

Section 9. COMPETING APPLICATIONS

9.1 At any time prior to the beginning of the hearing provided for in Section 7.1 of this Ordinance, any person which owns or controls a portion of the rights to drill for and produce the oil and gas contained in and under lands located within the Drilling Unit may submit an application for a Drilling Permit in competition with the permit for which such hearing is to be conducted. Such permit shall conform to the requirements set forth in Sections 5.1, 5.2, and 5.3 of this Ordinance, and shall cover the same land covered by the application for which such hearing is to be conducted but other notice need not be given to any other person. If a competing application is submitted, the hearing to be conducted in accordance with the provisions of Section

7.1 of this Ordinance shall include the hearing on the first application and all competing applications. The Mayor of the City of FRANKSTON , Texas, by direction of the City Council shall issue the Drilling Permit to the person, if any, among the persons making application therefor, who complies with the requirements set forth in Section 8.1 of this Ordinance. If two or more persons making application for a Drilling Permit comply with such requirements and such two or more persons own or otherwise control the rights to drill for and produce the oil and gas contained in and under an equal percentage of the land covered by such applications, such Drilling Permit shall be issued to the first of such persons making application therefor.

Section 10. EFFECT OF THE ISSUANCE OF A PERMIT ON ALL OTHER COMPETING PERMITS

10.1 The issuance of a Drilling Permit for an oil and gas well to one person in accordance with the provisions of this Ordinance shall automatically operate as a rejection and denial of all other pending, completed, and operated upon the Drilling Unit covered by such permit.

10.2 Any oil or gas produced from a well for which a Drilling Permit has been issued in accordance with the provisions of this Ordinance shall be deemed for all purposes to be attributed to and designated as production on a pro rata basis from each individual tract of land contained

within the Drilling Unit for such well.

10.3 The City Council of the City of FRANKSTON, Texas shall grant to any person completing a well pursuant to a Drilling Permit a right-of-way across all land owned or controlled by the City for the purpose of transporting the oil or gas produced from such well to the point of storage or sale of such oil or gas.

Section 11. OPERATIONS

11.1 The drilling, production, and all other operations conducted pursuant to the Drilling Permit shall be conducted in the manner which a reasonable prudent operator would conduct such operations under the same or similar circumstances and which does not constitute a threat to human life by hydrogen sulfide in lethal concentrations found in oil and gas reserves underlying the FRANKSTON Field area, a fire or safety hazard to the public in general, a hazard or source of pollution to the water or sanitation systems or supply of the City of FRANKSTON, a direct and immediate impediment, threat, or nuisance to residential, commercial, or public development or activities, or other similar threats to the lives, property, health, safety and welfare of the public in general.

11.2 If the City Council of the City of FRANKSTON, Texas, finds that the drilling, production, or other operation conducted pursuant to a Drilling Permit is being conducted

so as to constitute a hazard to the lives, health, safety, or welfare of the public in general or parts thereof, the Mayor and/or City Manager shall give the person conducting such operations notice thereof, setting forth in reasonable detail the nature of the hazard constituted, and the cause thereof, and shall request such person to immediately do all things possible to cease conducting the operation which constitutes such hazard. If such person, within a reasonable time does not cease conducting the operations which the Mayor and/or City Manager has found to constitute such hazard, the Mayor and/or City Manager shall order such person to forthwith cease and desist from conducting such operation. After being so ordered, such person shall cease and desist from conducting such operations. After being so ordered, such person shall have the right to give notice to the City Council of the City of FRANKSTON , Texas, that such person disagrees with such finding by the City Council. If such person fails to so cease and desist after such order by the Mayor and/or City Manager, such failure shall be a violation of the provisions of this Ordinance, and, in addition to the sanctions imposed by the provisions of Section 18 hereof, the Mayor and/or City Manager shall give the City Council notice of such failure. Within forty-eight(48) hours after receiving notice from such person or the Mayor and/or City

Manager, the City Council shall conduct a hearing to determine whether or not the operations so conducted constitute a hazard to the lives, health, safety or welfare of the public in general or parts thereof. The person conducting such operations shall be permitted to appear and give evidence at such hearing. If the City Council determines that such operations do constitute such a hazard, it shall order such person to permanently cease and desist from conducting such operations. If such person does not so cease and desist within a reasonable time after being ordered to do so by the City Council, the City Council shall have the right to suspend or cancel the Drilling Permit pursuant to which such operations are conducted.

11.3 Unless the Drilling Permit expressly so authorizes, no tank batteries or other storage facilities for oil or other liquids shall be installed within the corporate limits of the City of FRANKSTON , Texas, except temporary storage tanks at or near the proposed well to be used in connection with determining the volume of oil or other liquids which may be produced from the well. Any such temporary storage tanks shall be removed not more than ninety (90) days after the completion of such well.

11.4 Unless the Drilling Permit expressly so authorizes, no gas produced from a well located in the City of FRANKSTON , Texas shall be flared, vented, or permitted to escape, and

no oil produced from such a well shall be permitted to escape.

11.5 All permanent surface facilities and equipment, fresh water, mud and other pits or tanks used in connection with the production operations pursuant to a Drilling Permit shall be fenced or otherwise constructed so as to prevent free access thereto by children or other trespassers unless the Drilling Permit expressly authorizes the person to whom such Permit is issued to do otherwise.

Section 12. TERMINATION OF PERMIT

12.1 Any permit issued in accordance with the provisions of this Ordinance shall automatically terminate and thereafter be of no further force or effect at the following times:

(a) On the one hundred eightieth (180th) day following the date of issuance of such permit unless actual drilling of the well for which such permit was granted has been commenced prior to such day;

(b) On the one hundred eightieth (180th) day following the cessation of operation of the well for which such permit was issued;

(c) On the plugging and abandonment of the well for which such permit was issued as provided for in Section 13.1 of this Ordinance; and

(d) On cancellation thereof pursuant to the provisions of Section 11.2 hereof.

Section 13. ABANDONMENT OF WELL

13.1 Prior to abandoning any well within the corporate limits of the City of FRANKSTON , Texas, the operator of such well, in addition to conforming with all laws of the State of Texas and the rules and regulations of the Railroad Commission of Texas which relate to abandonment and plugging of a well, shall cut the surface casing of such well off at least six (6) feet below the surface of the ground, place at least a twenty-five (25) foot cement plug in the top of the casing, weld the top of the casing completely shut, and completely backfill and compact the resulting hole in the ground, and shall backfill and compact all fresh water, mud or other earthen pits used in connection with such well, and shall restore the surface of the tract on which such well was located to a condition similar to the condition which existed prior to the drilling of such well.

Section 14. BOND

14.1 If the issuance of a permit be authorized, the person making application therefor shall file with the City Secretary of the City of FRANKSTON , Texas, a bond, executed by such person as principal and by a good and sufficient corporate surety company licensed to do business in the State of Texas and whose name appears on the current list published by the United States Treasury Department of accepted sureties

on Federal bonds, as surety, conditioned that the principal will drill and operate the well for which such permit was issued in strict accordance with the terms of this Ordinance, and that the principal will remedy any and all damages to streets, curbs, gutters, water lines, fire hydrants and other public property, occasioned in any manner by his or its drilling or operation of said well. Such bond shall insure to the benefit of the City of FRANKSTON , Texas, and shall be in the amount of Ten Thousand Dollars ($10,000.00), and shall be in a form approved by the Attorney of the City of FRANKSTON , Texas. In lieu of filing a separate bond for each well drilled within the corporate limits of the City of FRANKSTON , Texas, any person may file a single bond in the amount of Thirty Thousand Dollars ($30,000.00) which otherwise meets the foregoing requirements as to all such wells. Failure to keep such bonds in full force and effect, in accordance with the terms hereof, shall be unlawful and a violation of this Ordinance.

Section 15. RELEASE FROM BOND

15.1 On the one hundred eightieth (180th) day following the plugging and abandoning of a well in accordance with Section 13.1 of this Ordinance, or, if no well was drilled, on the one hundred eightieth (180th) day following the termination of the permit issued for such well, in accordance with the

provisions of Section 12.1(a) of this Ordinance, if no claim or lawsuit affecting or affected by such bond has been filed or is pending on such dates, the City Secretary of the City of FRANKSTON shall return the bond filed in connection with such permit. If a claim or lawsuit of such nature is pending at such time, such bond shall be returned upon the satisfaction or defeat of such claim or lawsuit.

Section 16. ASSIGNABILITY

16.1 No permit issued in accordance with the provisions of this Ordinance shall be assigned by the person receiving such permit to any other person unless and until such other person has filed the certificate of insurance provided for in Section 5.3(e) of this Ordinance and the bond provided for in Section 14.1 of this Ordinance with the City Secretary of the City of FRANKSTON , Texas.

Section 17. PENALTIES

17.1 Any violation of any of the terms of this Ordinance, whether herein referred to as unlawful or not, shall be deemed a misdemeanor; and any person convicted of any such violation shall be fined in a sum not to exceed Two Hundred Dollars ($200.00); and any natural person so convicted shall be committed to jail until such fine and the costs are paid. Each day of the continuance of such violation shall be considered a separate offense and be punished separately; and any person

agent or employee engaged in any such violation shall on conviction be so punished therefor.

Section 18. NECESSITY OF CONTRACT WITH SURFACE OWNER

18.1 Neither this Ordinance nor any permit issued hereunder shall be interpreted to grant any right or license to the person receiving such permit to enter upon, occupy, install storage tanks, or use in any respect for the drilling and operation of any well on any surface land; nor shall it limit the rights of the owner of such surface land to contract with respect to the damages resulting from the drilling and operations pursuant to such permit or any other rights or privileges of such owner with respect to such surface land and improvements thereon located.

Section 19. SEVERABILITY AND WAIVER

19.1 If any section, subsection, paragraph, sentence, clause, phrase, or word contained in this Ordinance shall be held unconstitutional or invalid by the Courts, the invalidity of such unconstitutional or invalid part shall be stricken and shall not be construed to affect any other part of the Ordinance. It is the declared intent of the City Council of the City of FRANKSTON , Texas, that the Ordinance would have been passed without the unconstitutional or invalid portion thereof.

19.2 Should this Ordinance for any reason be ineffective

as to such part or parts shall not affect the effectiveness of this Ordinance as to all the remainder thereof.

19.3 The City Council of the City of FRANKSTON , Texas, is hereby authorized to waive any departures from the formal procedural requirements set forth herein if such waiver does not adversely affect the rights of third persons.

Section 20. APPEAL

20.1 Any person substantially affected by any decision or act of the City Council of the City of FRANKSTON , Texas, pursuant to the provisions of this Ordinance shall have the right to appeal therefrom to the City Council of such City by filing notice of such appeal with such Council within ten (10) days after such decision is made or act performed. Such appeal shall be in the nature of a trial de novo. The City Council shall conduct a hearing on such appeal within a reasonable time thereafter, permitting all interested persons to appear and give evidence, and shall within a reasonable time thereafter render its decision. The parties to such appeal shall have the right to request a rehearing on such appeal within ten (10) days after such decision.

Section 21. EMERGENCY CLAUSE AND EFFECTIVE DATE

21.1 There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction, and the City Council having declared the existence of such

emergency and requested such passage, this Ordinance shall be passed finally on the date of its introduction, this the 11th day of February, 1991, and shall take effect immediately upon its passage by the City Council of the City of FRANKSTON, Texas.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF , TEXAS, this the 11th day of February, 1991, at which meeting a quorum was present.

CITY OF FRANKSTON

JAMES GOUGER, MAYOR

ATTEST:

JEAN CALHOUN, CITY SECRETARY