

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING CHAPTER 114 OF THE MANSFIELD CODE OF ORDINANCES, "GAS WELL DRILLING AND PRODUCTION," PERTAINING TO NOISE, HOURS OF OPERATION, NOTIFICATION, AND OTHER DRILLING, OPERATION, AND PRODUCTION ACTIVITIES; PROVIDING THAT THIS ORDINANCE BE CUMULATIVE OF ALL OTHER ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, on August 11, 2008, the City Council adopted Ordinance Number 1704-08, regulating gas drilling within the city limits of Mansfield; and

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

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

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

SECTION 1.

That Section 114.12 of the Code of Ordinances, City of Mansfield, Texas is hereby amended by revising Paragraph (V) to read as follows:

“(V) The operator shall provide notice as follows:

(1) Any Operator who intends to perform the following activities shall give written notice to the designated City official and the Gas Well Inspector at least forty-eight (48) hours before the activities begin:

(a) drill a well, including site construction and/or preparation; mobilization and demobilization of drilling equipment, and operations related to advancing the wellbore such as spudding, setting surface casing, and cementing;

(b) re-work a well using a drilling rig;

(c) fracture stimulate a well;

(d) perform flow back operations;

(e) plug a well; or

(f) perform any other maintenance at a Drill Site or Operation Site.

(2) An Operator shall send notice, in a form acceptable to the City, to the occupants of all dwellings within one thousand (1,000) feet of a Drill Site or Operation Site in accordance with the following provisions:

(a) Notice shall be sent at least ten (10) days prior to the commencement of any of the following activities:

(1) site construction or preparation;

(2) mobilization or demobilization of drilling equipment;

(3) drilling operations;

(4) fracturing operations;

(5) flowback operations, together with a disclaimer that flaring may or may not occur;

(6) re-working a well; and

(7) plugging and abandoning a well.

(b) The notice shall identify the above activities that will be conducted and shall include the number of wells to be drilled and the estimated duration of the activities. If the activities are to be conducted continuously, they may be listed on one notice. Separate notices shall be required if an activity does not occur within ninety (90) day of the last activity on the Drill Site or Operation Site.

(c) The notice shall provide the address and twenty-four (24) hour phone number of the person conducting the activities, and the telephone numbers to file complaints with the Texas Commission on Environmental Quality and the Texas Railroad Commission.

(d) The Operator shall provide an affidavit certifying that notice has been sent to the above-referenced dwellings.”

SECTION 2.

That Section 114.13(D) of the Code of Ordinances, City of Mansfield, Texas is hereby amended by revising Sub-Paragraph (4) to read as follows:

“(4) During workover operations, all activities shall be restricted to daytime hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m., Saturday and Sunday. During fracturing operations, all activities shall be restricted to daytime hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturdays. Fracturing operations shall be prohibited on Sundays.”

SECTION 3.

That Section 114.13(D) of the Code of Ordinances, City of Mansfield, Texas is hereby amended by revising Sub-Paragraph (7) to read as follows:

“(7) The exterior noise level generated by the drilling, re-drilling or other operations on a drill site or an operation site located within 600 feet of a property occupied by a protected use shall be continuously monitored to ensure compliance. The continuous noise monitoring equipment shall be capable of wireless transmission of real-time noise and audio data. Access to this real-time data shall be made available to the City’s Inspectors. The cost of such monitoring shall be borne by the operator. Where continuous monitoring is not required, and a complaint is received by the city from the occupants of any protected use on property located more than 600 feet from a drill site or operation site, the operator shall, if required by the city, and within 24 hours of notice of the complaint, continuously monitor the exterior noise level generated by the drilling, re-drilling or other operations for a 72-hour period to ensure compliance. At the request of the city, the operator shall monitor the exterior noise level at the source of the complaint.”

SECTION 4.

That Section 114.13 of the Code of Ordinances, City of Mansfield, Texas is hereby amended by adding a new Paragraph (B) to read as follows, and re-lettering the existing Paragraphs (B) through (M) to Paragraphs (C) through (N):

“(B) Electric Power.

(1) An Operator shall use only electricity to power a drilling rig or permanent lift compressors as described in Chapter 114.03(B)(3) of this Code. The electricity shall be provided by the electric delivery utility company utilizing a ground-mounted transformer located on the Drill Site or Operation Site.

(2) The City may approve an alternative power source or equipment such as diesel generators if the Drill Site or Operation Site is located more than one thousand (1,000) feet from a property with a Protected Use, or if the electric delivery utility company reports that there is insufficient capacity to serve a Drill Site or Operation Site.

(3) An Operator may use temporary diesel generators during a disruption of electric service until such service is restored, provided that noise produced by such equipment does not exceed the maximum limits established for the Drill Site or Operation Site.”

SECTION 5.

That Section 114.21 of the Code of Ordinances, City of Mansfield, Texas is hereby amended by revising Paragraph (A) to read as follows:

“(A) A variance from the requirements of § 114.12(W), 114.13(B), 114.13(L), 114.15(1), and 114.15(M) may be sought by submitting a written request to the Director of Planning. The request must include the following:

* * *”

SECTION 6.

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

SECTION 7.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and Sections of this Ordinance are severable and if any phrase, clause, sentence, paragraph or Section of this Ordinance shall be declared unconstitutional by the valid judgment of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this Ordinance since the same could have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or Section.

SECTION 8.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 9.

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

SECTION 10.

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

SECTION 11.

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.

First reading approved on the _____ day of _____, 2014.

Second reading approved on the _____ day of _____, 2014.

DULY PASSED on the third and final reading by the City Council of the City of Mansfield, Texas, this _____ day of _____, 2014.

David L. Cook, Mayor

ATTEST:

Vicki Collins, City Secretary

APPROVED AS TO FORM AND LEGALITY

Allen Taylor, City Attorney