

**TOWN OF BARTONVILLE  
ORDINANCE NO. 461-08**

**AN ORDINANCE OF THE TOWN OF BARTONVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING ARTICLE 14.300, EXHIBIT “A,” THE TOWN OF BARTONVILLE COMPREHENSIVE ZONING ORDINANCE, AS AMENDED, BY REPEALING IN IT’S ENTIRETY CHAPTER 30, SECTION 30.3, OIL AND GAS DRILLING AND PRODUCTION AND REPLACING IT WITH A NEW SECTION 30.3 TO BE ENTITLED “OIL AND GAS WELL DRILLING AND PRODUCTION”; PROVIDING FOR PURPOSE; PROVIDING DEFINITIONS; PROHIBITING EXPLORATION AND PRODUCTION IN CERTAIN ZONING DISTRICTS; PROVIDING FOR OIL AND GAS WELL DRILLING AND PRODUCTION “BY RIGHT”; PROVIDING FOR OIL AND GAS WELL DRILLING AND PRODUCTION BY CONDITIONAL USE PERMIT, APPLICATION AND REQUIREMENTS; PROVIDING FOR A ROAD DAMAGE REMEDIATION AGREEMENT AND THE PAYMENT OF FEES; PROVIDING STANDARDS FOR OIL AND GAS WELL DRILLING AND PRODUCTION; REQUIRING OIL AND GAS PERMITS; PROVIDING FOR INSURANCE AND INDEMNIFICATION; PROVIDING FOR SECURITY; PROVIDING FOR REVIEW OF APPLICATIONS FOR OIL AND GAS PERMITS; PROVIDING FOR PERIODIC REPORTS; PROVIDING FOR NOTICE OF ACTIVITIES; PROVIDING FOR AMENDED OIL AND GAS PERMITS; PROVIDING FOR TRANSFER OF OIL AND GAS PERMITS; PROVIDING REMEDIES FOR THE TOWN; PROVIDING FOR ENFORCEMENT AND RIGHT OF ENTRY; PROVIDING FOR A PENALTY IN THAT ANY VIOLATION OF THIS ORDINANCE SHALL BE PUNISHED BY A FINE OF NOT MORE THAN TWO THOUSAND DOLLARS (\$2,000) PER DAY, SUBJECT TO THE APPLICABLE STATE LAW AND EACH DAY A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL OTHER ORDINANCES OF THE TOWN OF BARTONVILLE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE TOWN AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Bartonville, Texas, is a Type A General Law Municipality located in Denton County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the Town of Bartonville, Texas, is a general law municipality empowered under the Texas Local Government Code, Section 51.001, to adopt an ordinance or rule that is for the good government of the Town; and

**WHEREAS**, the Town Council of the Town of Bartonville, Texas, finds that the drilling and production of gas or oil without proper regulation, may affect the health, safety, and general welfare of the public and may cause imminent destruction of property or injury to person; and

**WHEREAS**, the Town Council does hereby find and determine that providing new

regulations for the drilling and production of oil or gas wells within the Town, by adoption of this Ordinance, is in the best interest of the public health, safety, morals and general welfare of the Town; and

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, THAT:**

**SECTION 1.  
(INCORPORATION OF PREMISES)**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2.  
(OIL AND GAS WELL DRILLING AND PRODUCTION  
REGULATIONS ADOPTED)**

That Article 14.300, Exhibit “A,” the Town of Bartonville Comprehensive Zoning Ordinance, as amended, by repealing in it’s entirety Chapter 30, Section 30.3, Oil and Gas Drilling and Production and Replacing it with a new Section 30.3 said new Section 30.3 to read in its entirety as follows:

**“30.3 OIL AND GAS WELL DRILLING AND PRODUCTION”**

**A. 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 oil and 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 encourage the orderly production of available mineral resources.

**B. Definitions.**

All technical industry words or phrases related to the drilling and production of oil or gas wells not specifically defined shall have the meanings customarily attributable thereto by prudent operators in the oil and gas industry. For the purposes of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

*Ambient Noise* means one second sampling of the sound for a duration of at least two minutes or for a duration of at least fifteen minutes if sampling of one minute is used, excluding outside noises including, but not limited to; insects, airplanes, vehicular traffic, nearby drilling or production equipment and wind.

*Building Inspector* means the Building Inspector employed by or designated by the Town of Bartonville.

*Compressor, On-Site* means a compressor whose sole purpose is to service one or more wells on a single lease area as indicated on an approved development plat.

*Compressor Station* means a compressor that serves more than one lease area or a compressor that serves a pipeline.

*Daytime* means 7:00 a.m. to 8:00 p.m

*Drilling* means any digging or boring of a new well to develop or produce oil or gas or to inject gas, water, or any other fluid or substance into the earth. Drilling means and includes the re-entry of an abandoned well and/or re-entry for the purpose of directionally drilling to establish a new well bore. Drilling does not mean or include the re-entry of a well that has not been abandoned.

*Drill Site* means the area used for drilling, completing, or re-working a well as well as all access roads into and out of said location.

*Exploration* means geologic or geophysical activities, including, but not limited to surveying and seismic exploration, related to the search for oil, gas, or other sub-surface oil or gas.

*Fire Chief* means the Fire Marshal of Denton County or the Fire Chief (or designee by the Town) of the Argyle Volunteer Fire District.

*Fire Code* means the most recent Fire Code adopted by the Town of Bartonville.

*Frac or Fracing* means the process of fracture stimulation of a rock formation

*Gas* means gas or natural gas, as such terms are used in the rules, regulations, or forms of the Railroad Commission.

*Gas Well* means any well drilled for the production of gas or classified as a gas well under the Texas Natural Resources Code.

*Nighttime* means 8:00 p.m. to 7:00 a.m.

*Oil/Gas Well Permit* means an Oil or Gas Well Permit applied for and issued or denied under this Ordinance authorizing the drilling, production, and operation of one or more oil or gas wells.

*Hazardous Materials Management Plan* means the hazardous materials management plan and hazardous materials inventory statements required by the Fire Code.

*New Well* means a new well bore or new hole established at the ground surface and shall not include the re-working of an existing well that has not been abandoned.

*Oil* means oil or crude Oil, as such terms are used in the rules, regulations, or forms of the Railroad Commission.

*Oil Well* means any well drilled for the production of oil or classified as an oil well under the Texas Natural Resources Code.

*Operation Site* means the area used for development and production and all related operational activities of 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 an oil or gas well.

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

*Petroleum Specialist* means a person familiar with and educated in the oil and gas industry who has been retained by the Town.

*Railroad Commission* means the Railroad Commission of Texas.

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

*Road Damage Remediation Agreement* means an agreement executed by and between the Town of Bartonville and the Operator of an Oil or Gas Well that provides for compliance with the provisions of this ordinance and for the payment of fees for damage remediation of certain streets and/or roadways within the Town of Bartonville, as attached hereto as Appendix "E," as if fully incorporated

herein.

*Source Noise* means the noise emanating from the equipment being measured, exclusive of surrounding natural or man-made noises including, but not limited to, insects, wind, surrounding drilling or production equipment and vehicular noises.

*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.

*Xeriscape* a landscaping method that employs drought-resistant plants in an effort to conserve resources, especially water.

*Well* means a hole or bore to any horizon, formation, or strata for the purpose of producing oil, gas, or other liquid hydrocarbons.

*Well head* means the surface hole location of the well.

**C. Prohibition Against Exploration and Production in Certain Zoning Districts and Provisions for Conditional use Permits.**

(a) In accordance with Appendix “C” Land Use Table, the placement of a well for the exploration for or the production of oil or gas is prohibited in the following zoning districts unless otherwise specifically excepted herein:

- 1. RE-1 Single family residential, one (1) dwelling unit per net acre
- 2. RE-2 Single family residential, 2 acre lots
- 3. RE-5 Single family residential, 5 acre lots
- 4. RB Rural Business
- 5. MH Manufactured Home
- 6. VC Village Center

(b) *Exception:* The placement of a well for the exploration for or the production of oil or gas may be allowed by Conditional Use Permit only in “RE-5” Single Family Residential Districts.

**D. Oil or Gas Well Drilling and Production “By Right”**

(a) The drilling and production of oil or gas within the corporate limits of the Town shall be permitted by right within “AG” Agricultural Zoning Districts provided that:

- (1) All applicable standards and requirements have been met as set forth in Sec. 30.3 (F), Standard Conditions for Oil/Gas Well Drilling and Production;

- (2) An approved Oil/Gas Well Development Plat and a Road Damage Remediation Agreement are on file with the Town;
  - (3) An Oil/Gas Well Permit has been issued by the Town;
  - (4) No residential structure, place of assembly, church, hospital or public or private school exists no closer than six hundred feet (600') from the wellhead and compressor;
  - (5) No accessory structures exist within two hundred feet (200') of the wellhead. The property owner of an accessory structure located within two hundred feet (200') of the wellhead may agree in a notarized written statement allowing the placement of the wellhead up to the accessory structure;
  - (6) The wellhead is located at least seventy five feet (75') from the public right-of-way;
  - (7) Any buildings that are accessory, but not necessary, to the operation of the well are located no closer than one hundred feet (100') from the wellhead;
  - (8) All storage tanks are located at least fifty feet (50') from the property line and at least seventy five feet (75') from the public right-of-way;
  - (9) No wellheads, pad sites or structures accessory to the well may be located within the flood plain.
  - (10) All storage tanks and buildings accessory to the well are located at least one hundred feet (100') from any residential structure, place of assembly, church, hospital or public or private school.
- (b) The drilling and production of gas within the corporate limits of the Town shall be permitted by right within "AG" Agricultural Zoning District if the property owner of a residential structure, place of assembly, church, hospital or public or private school within two hundred and fifty feet (250') to six hundred feet (600') of the wellhead and compressor agrees in a notarized written statement and provided that the drilling and production of gas meets the requirements of this ordinance.

**E. Oil or Gas Well Drilling and Production by Conditional Use Permit; Application and Requirements.**

- (a) No person, acting for himself or acting as an agent, employee, independent contractor, or servant for any person, shall engage in drilling or production

of an oil or gas well within the corporate limits of the Town without first obtaining a Conditional Use Permit as required by this Ordinance.

- (b) An application for a Conditional Use Permit for the drilling and production of an oil/gas well shall be filed by the person having legal authority. That person is presumed to be the record owner, mineral owner, or the duly authorized agent of either the record owner or the mineral owner. An applicant shall submit written notarized documentation of his/her authority to file an application.
- (c) No application shall be accepted for filing until it is complete and the fee established by the Town Council of the Town of Bartonville has been paid. Incomplete applications shall be returned less a fee for processing determined by the Town Secretary and/or assigns.
- (d) The drilling and production of oil or gas within the corporate limits of the Town shall be permitted by Conditional Use Permit in "RE-5" Single Family Residential Zoning Districts provided that:
  - (1) All applicable standards and requirements have been met as set forth in Sec. 30.3 (F), Standard Conditions for Oil/Gas Well Drilling and Production;
  - (2) An approved Oil/Gas Well Development Plat and a Road Damage Remediation Agreement are on file with the Town;
  - (3) An Oil/Gas Well Permit has been issued by the Town;
  - (4) No residential structure, place of assembly, church, hospital or public or private school exists no closer than six hundred feet (600') from the wellhead and compressor;
  - (5) No accessory structures exist within two hundred feet (200') of the wellhead. The property owner of an accessory structure located within two hundred feet (200') of the wellhead may agree in a notarized written statement allowing the placement of the wellhead up to the accessory structure;
  - (6) The wellhead is located at least seventy five feet (75') from the public right-of-way;
  - (7) Any buildings that are accessory, but not necessary, to the operation of the well are located no closer than one hundred feet (100') from the wellhead;
  - (8) All storage tanks are located at least fifty feet (50') from the property

(9) No wellheads, pad sites or structures accessory to the well may be located within the flood plain.

(10) All storage tanks and buildings accessory to the well are located at least one hundred feet (100') from any residential structure, place of assembly, church, hospital or public or private school.

(e) The drilling and production of gas within the corporate limits of the Town shall be permitted by Conditional Use Permit in "RE-5" Single Family Residential Zoning Districts if the property owner of a residential structure, place of assembly, church, hospital or public or private school within two hundred and fifty feet (250') to six hundred feet (600') of the wellhead and compressor agrees in writing and provided that the drilling and production of gas meets the requirements of this ordinance.

**F. Standards for Oil or Gas Well Drilling and Production**

(a) The drilling and production of an oil/gas well by right or the drilling and production of an oil/gas well by a Conditional Use Permit required by this Ordinance shall include the following standards:

(1) *Compliance with the Development Plat.* No drilling or production of an oil/gas well shall begin until an Oil/Gas Well Development Plat that has been approved by the Town Council is on file with the Town that conforms to the requirements of the Town of Bartonville Code of Ordinances, Chapter 10, Article 10.100, Section 10.101, Exhibit "A," as amended, the Development Regulations of the Town of Bartonville, Texas. The Development Plat may run concurrently with the drilling permit.

(2) *On-site requirements.*

a. No refining process, or any process for the extraction of products from gas, shall be carried on at a drill site or operation site, except that a dehydrator and separator may be maintained on a drill site or operation site for the separation of liquids from gas. Any such dehydrator or separator may serve more than one well.

b. All production equipment on the pad site shall be completely enclosed by a permanent chain link fence (8) feet in height with a secured gate within twenty (20) days after the installation of said production equipment. The equipment may be enclosed in a single fence, or components may be fenced separately. The gates shall remain locked when operation personnel are not present.. 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.

- c. Xeriscape landscaping shall be installed so as to screen the entire pad site. The landscaping shall be located in such a manner so as to provide the most effective screening with suitable shrubs that complement the architectural character of the surrounding neighborhood. Landscaping shall be installed within twenty (20) days after completion of drilling activities. The vegetation or berms shall be kept in an attractive state and in good condition at all times by the applicant or Operator. All xeriscape landscaping plans shall be submitted with an application for a drilling permit for approval by the Town .
- d. Vehicles associated with drilling and/or production in excess of three (3) tons shall be restricted to streets as designated on the vehicle route map.
- e. Muffling exhaust. 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.
- f. Noise Restrictions
  - 1. During the drilling, reworking or fracing operations of gas wells, the Operator shall continuously monitor the noise levels to ensure compliance. The cost of such monitoring shall be borne by the Operator. Upon request, the Operator must submit reports to the Town of said monitoring activities.
  - 2. Fracing Operations. All formation fracturing operations shall be conducted during daylight hours unless the operator has notified the Town Secretary that fracing will occur before or after daylight hours to meet safety requirements. “Flowback” operations to recover fluids used during fracture stimulation shall be exempt from work hour restrictions.
  - 3. Site Development. No construction activities involving excavation of, demolition of, alteration to, or repair work on any access road or pad site, shall occur during nighttime hours.

4. No well shall be drilled or reworked at any location within the Town in such a manner so as to create any noise which causes the exterior noise level when measured three hundred feet (300') from the wellhead or other source, or the property line, whichever is closer to the noise source to exceed 70 decibels at any time of the day. Adjustments to this noise level defined in section 7 apply to nighttime operations as well as to daytime operations except that the duration of the increase shall be reduced by one half.
  
5. Notwithstanding drilling, fracing and reworking operations, no engines, compressors or equipment related to the well shall be operated at any location within the Town in such a manner so as to create any Source Noise to exceed 40 decibels when measured three hundred (300) feet from the source of the noise or the nearest property line, if the nearest property line is within three hundred (300) feet from the noise source. Upon request, the Operator shall submit to the Town a sound study documenting the Source Noise. In the event that the Operator is unable to provide documentation or the documentation indicates the activities are not in compliance with these regulations, the Operator shall be required to immediately cease all operations contributing to the site's non-compliance. After taking actions to mitigate the noise, the Operator will be permitted to initialize the equipment in order to perform sound studies during daytime hours only. The Town will authorize the full operation of the equipment after receiving documentation indicating that the equipment is in compliance.
  
6. In determining compliance, measured sound will be adjusted to exclude the effect of background sound using standard sound equations. In the absence of a site specific sound level, an ambient sound level of 39.3 dB(a) will be used with the following adjustment table:

Measured	Ambient	Adjustment	Source
55	39.3	0.1	54.9
50	39.3	0.4	49.6
45	39.3	1.4	43.6
44	39.3	1.8	42.2
43	39.3	2.4	40.6
42	39.3	3.3	38.7
41	39.3	4.9	36.1
40	39.3	8.3	31.7

A site specific ambient sound level may be established by conducting a sound survey at the site. Such study shall be conducted so that the results do not include effects of traffic, aircraft, insects, other nearby equipment, etc. The sound study shall be conducted at a minimum of 72 continuous hours with at least 24 hours being on a Saturday or Sunday with sample periods of one minute or less. When equipment is in service, a survey measuring sound at increasing distance from the equipment can be used with standard sound equations to determine the ambient and source contribution of measured sound. The survey will include a minimum of six data points at least 50 feet from the source and extending to at least 600 feet from the source. Each measurement must be at least 15 minutes if using a one minute sample period or at least two minutes if using a one second sample period. When sound levels are above 60 dB(A) and a one second sample period is used, the sample period may be reduced to ten seconds.

7. Adjustments to the noise standards as set forth above in subsection (4) of this section may be permitted during daytime hours in accordance with the following:

Permitted Increase (dBA)	Duration of Increase (minutes)*
5.....	15
10.....	5
15.....	1
20.....	less than 1

\*cumulative minutes during any one hour

8. All workover operations shall be restricted to daytime hours. "Workover operations" shall mean work performed in a well after its completion in an effort to secure production where there has been none, restore production that has ceased or increase production. For fracing operations, refer to subsection one above.
9. Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the Town Engineer may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and subject to approval by the Fire Chief. In the event that an enclosure is required, all enclosures must be compatible and complementary in appearance to a rural environment (i.e. barn siding) to be approved by the Planning and Zoning Commission.

10. The sound level meter used in conducting noise evaluations shall meet the American National Standard Institute's Standard for sound meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.
  11. During nighttime operations, the operation of vehicle audible back-up alarms shall be prohibited or replaced with approved non-auditory signaling systems, such as spotters or flagmen. Deliveries of pipe, casing and heavy loads shall be limited to daytime hours, except for emergency situations. The Derrick Man and Driller shall communicate by walkie-talkie or other non disruptive means only when the Derrick Man is in the derrick. Horns may not be used to signal for connection or to summon crew (except that a horn may be used for emergency purposes only). The operator shall conduct onsite meetings to inform all personnel of nighttime operations noise control requirements.
  12. Upon receipt of a complaint of any of the standards above, the code compliance officer or the Town Engineer shall investigate the specific complaint. If it is determined and documented that violations have occurred, the code compliance officer or the Town Engineer shall take appropriate action.
- g. All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the Fire Chief. The top of the tanks shall be no higher than fifteen (15) feet above the terrain surrounding the tanks. All tanks shall be set back pursuant to the standards of the Railroad Commission and the National Fire Protection Association, but in all cases, shall be at least fifty (50) feet from any public right-of-way.
  - h. Cooling facilities or compressor stations are prohibited within the corporate limits of the Town of Bartonville.
  - i. On-Site compressors are permitted provided that they meet all of the requirements of this section, including the requirement of a sound study as required in section f.6. above and the facilities are included on the development plat. The Operator may administratively amend the development plat to indicate the addition of a compressor with the approval of the Mayor and the Planning and Zoning Chairperson. The Mayor or Chairperson may chose to send the amended development plat to the Planning & Zoning Commission and the Town Council. The Operator must submit to the Town a design of the on-site compressor, including any permanent sound baffling materials to maintain with the

permit file. Sound baffling devices utilizing more than one wall shall be equipped with an LEL detector.

- j. Air or pneumatic drilling is not allowed in the Town.
- k. Prior to the commencement of any drilling operations:
  - 1. 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 milled asphalt, crushed rock, gravel or ore and maintained to prevent dust and mud. Once the well is in the producing stage, secured access gates shall be installed and kept locked when the site is not under 24 hour on-site supervision. All secured access gates shall be equipped with a knox lock and shall be set back a minimum of seventy feet (70') from the right-of-way. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the Town Engineer and/or Fire Chief 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.
  - 2. All private roads used for access to the drill site that connect to public rights-of-way shall have a drainage culvert constructed and installed in conformance with the Town of Bartonville Code of Ordinances, Chapter 3, Article 3.1000, Section 3.1003, Culvert Construction Standards.
  - 3. Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" in a minimum of four inch (4") lettering shall be posted at the entrance of each drill site and operation site. The sign shall include the phone number for emergency services (911), the number for the operator, and the well designation required by the Railroad Commission in two inch (2") lettering.
  - 4. A permanent weatherproof sign at least four feet (4') by eight feet (8') in size shall be installed at the site exit point, indicating the vehicle route map and specifying "NO RIGHT TURN" or "NO LEFT TURN" in conformance with said approved vehicle route map.

- l. No person shall place, deposit, or discharge (or cause or permit to be placed, deposited, or discharged) any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substance, or any refuse, including wastewater or brine, from any gas operation or the contents of any container used in connection with any oil or gas operation in, into, or upon any public right-of-way, storm drain, ditch or sewer, sanitary drain or sewer, any body of water, or any private property within the corporate limits of the Town .
- m. All fire suppression and prevention equipment required by any applicable federal, state, or local law shall be provided by the operator, at the operator's cost, and maintenance and upkeep of such equipment shall be the responsibility of the operator.
- p. No operator shall excavate or construct any lines for the conveyance of fuel, water, or minerals on, under, or through the streets or other land of the Town without an approved Right-of-Way Permit and then only in strict compliance with specifications established by Town Ordinances.
- q. The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any public street or leaving upon any public street any earth or other material or obstruction, is prohibited unless the operator has first obtained an approved Right-of-Way Permit, and then only in strict compliance with specifications established by Town Ordinances.
- r. No Oil/Gas Well permit shall be issued for any well to be drilled within any of the streets of the Town and/or streets shown by the Town of Bartonville Thoroughfare Plan and no street shall be blocked or encumbered or closed due to any exploration, drilling, or production activities unless prior consent is obtained by the Town Council, and then only temporarily.
- s. 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. No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway or upon any operation site which constitutes 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. The Town Engineer or the Fire Chief shall determine whether equipment on the site shall constitute a fire hazard. 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.

- t. Notwithstanding the lighting and glare standards set forth in the Town of Bartonville Code of Ordinances, no person shall permit any lights located on any drill site or operation site to be directed in such a manner so that they shine directly on public streets, adjacent property or property in the general vicinity of the drill site or operation site. Site lighting shall be shielded and directed downward and internally so as to avoid glare on public streets and buildings within three hundred feet (300’).
- u. All site development must meet the tree conservation and protections requirements set forth the Town of Bartonville Code of Ordinances.

*(3) Flow lines and gathering lines.*

- a. Each operator shall place an identifying sign at each point where a flow line or gathering line crosses a public street or road.
- b. Each operator shall place a warning sign for lines carrying H<sub>2</sub>S (Hydrogen Sulfide) gas as required by the Railroad Commission.
- c. All flow lines and gathering lines within the corporate limits of the Town (excluding utility lines and franchise distribution systems) that are used to transport oil, gas, and/or water shall be limited to the maximum allowable operating pressure applicable to the pipes installed and shall be installed with at least the minimum cover or backfill specified by the American National Safety Institute Code, as amended. All such lines shall be buried to a minimum of 36” below the ground surface and shall be shown on the as built plans.
- d. Structures shall not be built over flow lines or gathering lines.
- e. All flow lines and gathering lines used in the operation of the well must be permitted according to the Town’s pipeline regulations.

*(4) Additional safety and environmental requirements.*

- a. The drilling and production of oil/gas and accessing the oil/gas well site shall be in compliance with all state and federal environmental regulations.
- b. Oil/gas wells may have a target location or bottom-hole location that is under an Environmentally Sensitive Area when the oil/gas

well is drilled directionally from a location outside the Environmentally Sensitive Area.

- c. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All wellheads shall contain an emergency shut off valve to the well distribution line.
- d. 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.
- e. All storage tanks shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be of a sufficient height to contain 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 pump out connection to contain the liquids from the storage tank.
- f. Tank battery facilities shall be equipped with a lightning arrestor system.
- g. A Hazardous Materials Management Plan shall be on file with the Town Secretary. The plan shall include contact information for the Operator's preferred hazardous materials management company that may be contacted in the event of a hazardous materials spill.
- h. An evacuation program shall be filed with the Town prior to starting any drilling operation.
- i. 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. A copy of the mandatory well casing report required for abandoned wells by the Railroad Commission shall be submitted to the water service provider that provides services the area in which a well is located.
- j. No structures shall be built over an abandoned well.
- k. The practice of "Land Farming," as defined by the Texas Railroad Commission Rule No. 3.8 is prohibited.
- l. No salt-water disposal wells shall be located within the Town of

Bartonville.

- m. Pit Lining and Fencing: All lined frac or reserve pits shall adhere to the pit lining standards set forth by the Railroad Commission. Pit liners shall be designed, constructed, installed and maintained to prevent any migration of materials from the pit into adjacent subsurface soils, ground water or surface waters at any time during the life of the pit. Upon completion of drilling and fracing operations, all plastic linings shall be removed and disposed of in accordance with TCEQ rules regarding solid waste disposal. Under no circumstances shall the plastic lining be left on site or buried. All open pits, including fracture stimulation pits, shall be completely contained within a six strand barbed wire fence. An alternate fencing material suitable to prevent access to the pit area may be substituted upon the approval of the Town.
- n. Audible Alarms Required: An automated audible alarm system shall be installed at each well site to provide warnings for a substantial drop in pressure, the release of any gas or oil, or fire. Said audible alarm system shall be approved by the Town of Bartonville.
- o. Site Cleanup Required:
  - 1. Cleanup After Well Servicing – After the well has been completed or plugged and abandoned, the operator shall clean and restore the drill site or operation site as close as practicable to the site’s pre-drilling condition and repair all damage to public property caused by such operations within thirty (30) calendar days of the completion of well drilling activities or plugging and abandonment of a well.
  - 2. Cleanup 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 Town all waste materials from any public or private property affected by such spill, leak or malfunction. Cleanup operations must begin immediately. If the owner fails to begin site cleanup within twenty-four (24) hours, the Town shall have the right to contact the Railroad Commission in order to facilitate the removal of all waste materials from any property affected by such spill, leak or malfunction.
  - 3. 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 tanks, separators, and producing wells.

4. Blowouts – In the event of the loss of control of any well, the operator shall immediately take all reasonable steps to regain control regardless of any other provision of this Article and shall notify the Town as soon as practicable. If the Town believes that danger to persons and property exists because of 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 Town 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 that the Town deems necessary to regain control of such well. The Town shall then have a valid lien against the interest of the well of all working interest owners to secure payment of any expenditure made by the Town pursuant to such action of the Town in gaining control of said well.
- p. Emergency Response Plans and Emergency Incident Reporting – The reporting requirements specified herein are in addition to those required by this Ordinance.
1. Each gas or oil well owner or operator shall maintain written procedures to minimize the hazards resulting from an emergency and shall provide a copy of these procedures to the Town Secretary. These procedures shall at a minimum provide for:
    - a. Prompt and effective response to emergencies regarding:
      1. Leaks or releases that can impact public health, safety, welfare;
      2. Fire or explosions at or in the vicinity of an oil or gas well; or
      3. Natural disasters;
    - b. Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency;
    - c. The availability of personnel, equipment, tools, and materials as necessary at the scene of an emergency;
    - d. Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment;
    - e. Emergency shut down of an oil or gas well and related site;
    - f. The safe restoration of service and operations following an emergency or incident;



5. The oil or gas well owner or operator shall contact the Denton County emergency planning committee (DCEPC) no later than one (1) hour after the discovery of any incident.
6. Within two (2) years of the effective date of the oil or gas well permit and every two (2) years thereafter, the oil or gas well owner or operator shall conduct an on-site, emergency drill that includes, but shall not be limited to, the personnel operating the oil or gas well, local law enforcement personnel, and officials of the Town of Bartonville.
- q. Erosion control measures shall be utilized for all gas wells. Damage resulting from sedimentation and/or erosion shall be repaired immediately.
- r. Drip pans and other containment devices or oil absorbing materials shall be placed or installed underneath all tanks, containers, pumps, lubricating systems, engines, fuel and chemical storage tanks, system valves, connections and any other areas or structures that could potentially leak, discharge or spill hazardous liquids, semi-liquids, or solid waste materials, including hazardous waste inseperable by simple mechanical removal processes that is made up of primarily natural material.
- s. The 24-hour emergency contact information as well as secondary contact information must be provided to the Town upon permit submittal.

(5) *Reworking of a well*

- a. Reworking of a well to deepen or directional drill an existing well shall be conducted in accordance with the conditions for the applicable Conditional Use Permit or underlying zoning classification that permits oil/gas development by right.
  - b. Reworking of a well to deepen or directional drill an existing well shall be conducted in accordance with the approved Oil/Gas Well Permit for the well on file with the Town Secretary.
- (6) Drilling and production of oil/gas wells shall comply with all federal, state, and local laws applicable to oil/gas well drilling, production and operations.
- (7) It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located within five hundred (500) 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. Within one hundred eighty (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 Town may approve an alternative method of protecting the production casing from external corrosion.

(8) *Fracing Permits Required.*

- a. Initial fracing operations are covered under the drilling permit for a period of one year from the date of approval of the drilling permit. Subsequent fracing operations require the application of a new fracing permit valid for a period of six (6) months.
- b. Upon application of a fracing permit, the applicant shall provide the following:
  1. Proof of compliance with Section 30.3I Insurance and Indemnification;
  2. Proof of compliance with Section 30.3J Security; and
  3. An updated Road Damage Remediation Agreement as required by the Town Engineer.
- c. Applications will be subject to fees as set forth in the adopted fee schedule.
- d. The Town Secretary shall forward all applications for fracing permits to the Planning and Zoning Commission for review. The Planning and Zoning Commission shall review each application and shall make recommendations regarding the applications to the Town Council. A copy of all recommendations shall be provided to the operator.
- e. The following requirements shall apply to all fracture stimulation operations performed on a well:
  1. At least forty-eight (48) hours before operations are commenced, the Operator shall notify the Town Engineer and post a sign at the entrance of the well site advising the public of the date the operations will commence;
  2. A watchman shall be required at all times during approved nighttime operations; and
  3. 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.

(9) *Pre-Drilling Requirements:*

- a. No construction activities involving excavation of, demolition of, alteration to, or repair work on any access road or pad site or any drilling, fracing or reworking operations may be conducted until such time a “Pre-Drilling Meeting” has been conducted, the purpose of which shall be to ensure that the Operator and all subcontractors are aware of the permit requirements, including but not limited to the official vehicle route as approved in the permit.
- b. The Pre-Drilling Meeting shall be conducted at least 24 hours prior to the commencement of the aforementioned activities.
- c. The Operator shall provide the Town with the contact information, including name, address and 24-hour contact person for all of the sub-contractors that will be accessing the drill site with vehicles in excess of three (3) tons.
- d. Each and every contractor specified in subsection c. above shall have a representative present at the Pre-Drilling Meeting.
- e. The Operator shall provide the Denton County Sheriff’s Office with the 24-hour contact information and the address of the wellhead.

(10) *Notification Requirements*

- a. Operators shall provide the Town and the Fire Chief, or his assigns, forty-eight (48) hours notice prior to any of the following events:
  1. Spudding the well;
  2. Fracing the well;
  3. Installation or exchange of a compressor;
  4. Delivering explosives;
  5. Flaring the well, except for safety reasons;
  6. Delivering of flammable or combustible liquids, excluding gasoline or diesel fuel; or
  7. Reworking the well.
- b. Operators shall provide the Town and the Fire Chief, or his assigns, forty-eight (48) hours notice following any of the following events:
  1. A Hazardous Materials release or incident;
  2. Shutting in of a well for safety reasons;

3. Flaring of a well for safety reasons;
4. Completion of drilling activities; or
5. Initialization of production activities.

(11) *Compliance Inspections*

The Town shall conduct annual inspections, the cost of which shall be set in accordance with the Town's Fee Schedule. The Operator shall pay the annual inspection fees no later than January 15<sup>th</sup>. Any professional fees including engineer, attorney or other consultants shall be billed to the Operator at 100% of the actual cost incurred by the Town.

**G. Planning and Zoning Commission Recommendations for Conditional Use Permits**

- (a) The Town Secretary shall forward all applications for Conditional Use Permits to the Planning and Zoning Commission for review. The Planning and Zoning Commission shall review each application and shall make recommendations regarding the applications to the Town Council. A copy of all recommendations shall be provided to the operator. The Planning and Zoning Commission may make recommendations regarding any aspect of the proposed oil/gas well development including, but not limited to, recommendations with respect to the standards set forth in this Ordinance.
- (b) In connection with its review of an application for a Conditional Use Permit for the drilling and production of oil/gas wells, the Planning and Zoning Commission may determine that it is necessary to hire a petroleum specialist to assist the Commission in reviewing the application. If such a determination is made, the Commission will provide the operator a written "scope of work" that the Commission proposes for such specialist. The Planning and Zoning Commission and the operator will attempt to agree upon the "scope of work," however, the decision of the Commission shall control. If required by the specialist, the operator will provide a retainer; otherwise, the operator will pay for the services of the specialist after they are rendered. All work performed by the specialist shall be itemized on a daily basis (including a description of the work and the amount of time spent), and such itemization shall be provided to the operator with each request for payment.
- (c) The Planning and Zoning Commission has the authority to establish guidelines to use in making recommendations for Oil/Gas Well Permits or by Conditional Use Permit.

## **H. Oil/Gas Well Permit Required**

- (a) Any person, acting for himself or acting as an agent, employee, independent contractor, or servant for any person, shall not engage in the drilling and production of oil/gas wells within the corporate limits of the Town without first obtaining an Oil/Gas Well Permit issued under this Ordinance.
- (b) When an Oil/Gas Well Permit has been issued covering a well, the permit shall constitute authority for drilling, operation, production, gathering of production, maintenance, repair, re-working, testing, site preparation consisting of rigs or tank batteries, plugging and abandonment, and any other activity authorized by this Ordinance associated with drilling or production by the operator and their respective employees, agents, and contractors. An Oil/Gas Well Permit shall also constitute authority for the construction and use of all facilities reasonably necessary or convenient in connection therewith, including gathering lines and discharge lines, by the operator and its respective employees, agents, contractors and subcontractors.
- (c) An Oil/Gas Well Permit shall not be required for exploration for gas. Exploration of oil/gas means geologic or geophysical activities, including, but not limited to surveying and seismic exploration, related to the search for oil, gas, or other sub-surface hydrocarbons.
- (d) Any well that has been annexed into the Town shall be required to meet the requirements of this Ordinance and shall apply for an Oil/Gas Well Permit on the effective date of the annexation. Any well that has obtained an Oil/Gas Well Permit issued by the Town prior to the effective date of this Ordinance shall provide all information required for Oil/Gas Well Permits under this Ordinance unless the information has been previously provided to the Town. Oil/Gas Well Permits issued prior to the effective date of this Ordinance shall comply with the following requirements:
  - (1) Standards for oil/gas well drilling and production requirements of this ordinance.
  - (2) Insurance and Security requirements of this ordinance.
  - (3) Periodic reports as required by this Ordinance.
  - (4) Road Damage Remediation Agreement unless already provided.
  - (5) Notice of Activity requirements of this ordinance.

- (e) An Oil/Gas Well Permit shall not, however, constitute authority for the re-entering and drilling of an abandoned well. Re-entry and drilling of an abandoned well shall require a new Oil/Gas Well Permit.
- (f) Applications for Oil/Gas Well Permits shall be in writing, shall be on forms provided by the Town Staff; shall be signed by the Operator; shall include the application fee; and shall include a copy of the applicable Conditional Use Permit; and Development Plat.
- (g) An Oil/Gas Permit shall not be issued until such time that the Operator has filed a vehicle route map indicating the route that will be used by all vehicles associated with drilling and or production in excess of three (3) tons.
- (h) An Oil/Gas Well Permit shall not be issued until such time that the Operator and the Town have executed an acceptable Road Damage Remediation Agreement; all Road Damage Remediation Fees for the consumption of road design life have been paid in full; and a road maintenance bond has been provided in an amount equal to no less than \$25,000 per roadway mile in accordance with the approved vehicle route map.
- (i) Before drilling and setting casing in any well for oil and gas within the corporate limits of the Town, the permit applicant must contact the Town and the governing body of potable public water supplies and obtain letters stating where the fresh water sands are to be found in the area or field in which the well is to be drilled. A copy of the governing body of potable water supplies' letter must be filed with the Town and the permit applicant must set sufficient surface casing as required. Failure to file such letter shall be unlawful and shall be punishable as such.

**I. Insurance and Indemnification.**

The operator shall provide or cause to be provided the insurance described below for each well for which an Oil/Gas Well Permit is issued, such insurance to continue until the well is abandoned and the site restored. Such coverage shall be approved by the Town Council.

- (a) General Requirements. Indemnification and Express Negligence Provisions
  - (1) Each Oil/Gas Well Permit issued by the Town 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 have or may have, or assigns may have, or claim to have, against the Town of Bartonville, and/or its departments,

it 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 an Oil/Gas Well Permit and the operator caused by or arising out of, that sequence of events which occur from the operator under the Oil/Gas Well Permit and work performed by the operator shall fully defend, protect, indemnify, and hold harmless the Town of Bartonville, Texas, and/or 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 Bartonville, Texas, and/or 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 an Oil/Gas Well Permit and, the Operator agrees to indemnify and hold harmless the Town of Bartonville, Texas, and/or its departments, and/or 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 and/or, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the Town of Bartonville occurring on the drill site or operation site in the course and scope of inspecting and permitting the oil/gas wells INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE SOLE NEGLIGENCE OF THE TOWN OF BARTONVILLE OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE OIL/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 BARTONVILLE, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE TOWN OF BARTONVILLE, 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. LIABILITY FOR THE SOLE NEGLIGENCE OF THE TOWN IN THE COURSE AND SCOPE OF ITS DUTY TO INSPECT AND PERMIT THE

OIL/GAS WELL IS LIMITED TO THE MAXIMUM AMOUNT OF RECOVERY UNDER THE TORT CLAIMS ACT.

- (2) 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".
- (3) Liability policies shall be written by carriers licensed to do business in Texas and with companies rated "A" or better by A.M. Best, or with non-admitted carriers that have a financial rating comparable to carriers licensed to do business in Texas approved by the Town. The "A" rating by A.M. Best shall be maintained for the policy period.
- (4) Liability policies shall name as "Additional Insured" the Town and its officials, agents, employees, and volunteers.
- (5) Certificates of insurance must be presented to the Town evidencing all coverage's and endorsements required by this ordinance, and the acceptance of a certificate without the required limits and/or coverage's shall not be deemed a waiver of these requirements.
- (6) Claims made policies will not be accepted except for excess policies or unless otherwise provided by this Ordinance.
- (7) All liability policies shall include a blanket waiver of subrogation.

(b) Required Insurance Coverages

(1) Commercial General Liability Insurance.

- (a) Coverage should be a minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage. This coverage must include premises, operations, blowout or explosion, products, completed operations, blanket contractual liability, underground property damage, broad form property damage, independent contractors protective liability and personal injury.

(b) Environmental Pollution Liability Coverage:

1. Operator shall purchase and maintain in force for the duration of the Oil or Gas Well Permit insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of that 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 a 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 (\$10,000,000) dollars.

2. Coverage shall apply to sudden and accidental pollution conditions resulting from escape or release of smoke vapors, fumes, acids, alkalis, toxic chemicals, liquids or gasses, 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.

(2) Automobile Liability Insurance. Minimum Combined Single Limit of \$500,000 per occurrence for Bodily Injury and Property Damage. Such coverage shall include owned, non-owned, and hired vehicles.

(3) Worker's Compensation Insurance. In addition to the minimum statutory requirements, coverage shall include Employer's Liability limits of at least \$100,000 for each accident, \$100,000 for each employee, and a \$500,000 policy limit for occupational disease, and the insurer agrees to waive rights of subrogation against the Town, its officials, agents, employees, and volunteers for any work performed for the Town by the operator.

(4) Excess (or Umbrella) Liability Insurance. Minimum limit of \$10,000,000 covering in excess of the preceding insurance policies.

(5) Control of Well Insurance.

(a) Minimum limit of \$5,000,000 per occurrence.

(b) Policy shall cover the Cost of controlling a well that is out of control, Re-drilling or Restoration expenses, Seepage and Pollution Damage. Damage to Property in the Operator's Care, Custody, and Control with a sub-limit of \$500,000 may be added.

## **J. Security.**

- (a) Security instruments that cover each well must be delivered to the Town before the issuance of the Oil/Gas Well Permit for the well. The instrument(s) must provide that it cannot be cancelled without at least thirty (30) days' prior written notice to the Town, except when this policy is being cancelled for nonpayment of premium, in which case 10 days advance written notice is required". The instrument(s) shall secure the obligations of the operator related to the well to:
- (1) Repair damage as determined by the Town Engineer excluding ordinary wear and tear, if any, to public streets, including but not limited to bridges, caused by the operator or by the operator's employees, agents, contractors, subcontractors or representatives in the performance of any activity authorized by or contemplated by the Oil/Gas Well Permit. The road maintenance bond shall be in an amount equal to no less than \$25,000 per roadway mile as depicted on the approved vehicle route map.
  - (2) Comply with the provisions of this ordinance and/or pay fines and penalties imposed upon the operator by the Town for any breach of the Oil/Gas Well Permit.
    - (a) Single Wells. The amount of the security shall be a minimum of \$50,000 for any single well. Any operator who initially posted a \$50,000 bond, and whose well is in compliance with these regulations, is in the producing stage and all drilling operations have ceased, may submit an application to the Town to reduce the bond to \$25,000. During reworking operations, the amount of the bond shall be maintained at \$50,000.
    - (b) Multiple Wells. An Operator drilling or reworking between one and five wells at any given time may elect to provide a blanket bond in the principal minimum amount of \$150,000. If the Operator drills or reworks more than five wells at a time, the blanket bond shall be increased in increments of \$50,000 for each additional well.
- (b) The security instrument(s) may be in the form of an irrevocable letter of credit or payment bond issued by a bank or surety approved by the Town. The instrument(s) shall run to the Town for the benefit of the Town, shall become effective on or before the date the Oil/Gas Well Permit is issued, and shall remain in effect until the well is abandoned and the site restored. The security instrument(s) must be provided by a surety company with an A.M. Best A rating that is licensed to conduct business in the State of Texas and shall be payable to the Town of Bartonville. Such surety company shall maintain an A.M. Best A rating for the policy period.

- (c) A certificate of deposit may be substituted for the letter of credit or payment bond. The certificate shall be issued by a bank in Denton County, Texas, shall be approved by the Town, shall be payable to the order of the Town to secure the obligations of the operator described above, and shall be pledged to the bank with evidence of delivery provided to the Town. Interest on the certificate shall be payable to the operator.
- (d) Any operator who initially posted security, whose well is in the producing stage and all drilling operations have ceased, may submit an application to the Town to reduce the amount of the existing security.
- (e) The security will terminate when the Oil/Gas Well Permit is transferred, with respect to the operator-transferor and if the operator-transferee provides replacement security that complies with this section, when the well is abandoned and the site restored, and when the Town consents in writing to such termination.
- (f) An appeal of the determination of the amount of security required under this Ordinance may be made to the Planning and Zoning Commission for recommendation to the Town Council for final determination of the amount of security.

**K. Review of Applications For Oil/Gas Well Permit.**

- (a) All applications for Oil/Gas Well Permits shall be filed with the Town Secretary or assigns who shall immediately forward all applications to the Planning and Zoning Commission for review. Incomplete applications shall be returned to the applicant, in which case the Town shall provide a written explanation of the deficiencies if requested by the applicant. The Town shall retain a processing fee determined by the Town. The Town may return any application as incomplete if there is a dispute pending before the Railroad Commission regarding the determination of the operator. All such applications shall be accompanied with an approved permit issued by the Railroad Commission.
- (b) The Planning and Zoning Commission shall review each application and shall determine whether the application includes all of the information required by this Ordinance, whether the application is in conformance with the applicable Oil/Gas Well Development Plat, applicable Conditional Use Permit or Planned Development Zoning District and whether the application is in conformance with the insurance and security requirements set forth in this Ordinance. The Planning and Zoning Commission shall forward a written report regarding its determination to the Town Council, with a copy provided to the operator.

- (c) The Planning and Zoning Commission shall review the application and shall make recommendations to the Town Council regarding issuance of the Oil/Gas Well Permit. If the Town Council approves the Oil/Gas Permit Application, the Town shall issue an Oil/Gas Permit, which shall be forwarded onto the operator. If after receiving the application, the Planning and Zoning Commission determines that the application is incomplete or that the application is not in conformance with the applicable Oil/Gas Well Development Plat and/or the applicable Conditional Use Permit, the Town may employ a technical advisor under the Fire Code.
- (d) The Town Council may condition the release of the approved Oil/Gas Well Permit upon the operator providing the security required by this Ordinance and upon the operator entering into a Road Damage Remediation Agreement that will obligate the operator to repair damage excluding ordinary wear and tear, if any, to public streets, including but not limited to, bridges caused by the operator or by the operator's employees, agents, contractors, subcontractors or representatives in the performance of any activity authorized by or contemplated by the approved Oil/Gas Well Permit.
- (e) Each Oil/Gas Well Permit issued by the Town shall:
  - (1) Identify the name of each well and its operator;
  - (2) Specify the date on which the Town issued each permit;
  - (3) Specify that drilling must commence on the well covered by the permit within six (6) months of approval by the Town otherwise the permit expires. A one year extension of time may be recommended by the Planning and Zoning Commission and approved by the Town Council if existing conditions are the same;
  - (4) Specify that initial fracing of the well covered by the drilling permit must commence within one (1) year of approval by the Town. Subsequent fracing activities shall require a new fracing permit in accordance with Section 30.3F(a)(8);
  - (4) Specify that once drilling has commenced, the permit shall continue until the well covered by the permit is abandoned and the site restored or within one year of the approval date of the permit by the Town Council, whichever comes first;
  - (5) Incorporate, by reference, the insurance and security requirements set forth in this Ordinance;

- (6) Incorporate, by reference, the requirement for periodic reports set forth in this Ordinance and for Notice of Activities set forth in this ordinance;
  - (7) Incorporate the full text of the release of liability provisions set forth in this Ordinance;
  - (8) Incorporate, by reference, the conditions of the applicable Development Plat or applicable Conditional Use Permit.
  - (9) Incorporate, by reference, the information contained in the permit application;
  - (10) Incorporate, by reference, the applicable rules and regulations of the Railroad Commission, including the applicable “field rules”;
  - (11) Specify that no drilling operations (including the construction of internal private access roads) shall commence until the operator has provided the security required by this Ordinance;
  - (12) Contain the name, 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; and
  - (13) Incorporate by reference all other permits and fees required by the Fire Code.
- (f) The decision of the Planning and Zoning Commission to recommend denial an application for an Oil/Gas Well Permit shall be provided to the operator in writing within 10 days after the decision, including an explanation of the basis for the decision, if requested by the operator. The Town Council shall make the final decision regarding approval of the Oil/Gas Permit.
  - (g) If an application for a Gas Well Permit is denied by the Town Council, nothing herein contained shall prevent a new permit application from being submitted to the Town for the same well.

**L. Periodic Reports.**

- (a) The operator shall notify the Town Secretary of any changes to the following information immediately, within one business day after the change occurs.

- (1) The name, address, and phone number of the operator;
  - (2) The name, address, and 24-hour phone number of the person(s) with supervisory authority over drilling or operations activities;
  - (3) The name, 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; and
  - (4) The operator's Emergency Action Response Plan including "drive-to-maps" from public rights-of-way to each drill site.
- (b) The operator shall provide a copy of any "incident reports" or written complaints submitted to the Railroad Commission or any other state or federal agency within 30 days after the operator has notice of the existence of such reports or complaints.
  - (c) Beginning on December 31st after each well is completed, and continuing on each December 31st thereafter until the operator notifies the Town that the well has been abandoned and the site restored, the operator shall prepare a written report to the Town identifying any changes to the information that was included in the application for the applicable Oil/Gas Well permit that have not been previously reported to the Town.

**M. Notice of Activities**

Any person who intends to re-work a well using a drilling or workover rig, to fracture stimulate a well after initial completion, or to conduct seismic exploration involving explosive charges shall give written notice to the Town at least 10 days before the activities begin. The notice shall identify where the activities will be conducted and shall describe the activities in reasonable detail, including but not limited to the duration of the activities and the time of day they will be conducted. The notice must also provide the address and 24-hour phone number of the person conducting the activities. The person conducting the activities will 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. If the Town determines that an inspection by the Town is necessary, the operator will pay the Town's customary charge for the inspection.

**N. Amended Oil/Gas Well Permits**

- (a) An operator shall submit an application to the Town to amend an existing Oil/Gas Well Permit to commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) the existing permit, to relocate a drill site or operation site that is shown on (or incorporated by

reference as part of) the existing permit, or to otherwise amend the existing permit.

- (b) Applications for amended Oil/Gas Well Permits shall be in writing, shall be on forms provided by the Town, shall be signed by the operator, and shall include the following:
  - (1) The application fee as set by the Town's adopted Fee Schedule;
  - (2) A description of the proposed amendments;
  - (3) Any changes to the information submitted with the application for the existing Oil/Gas Well Permit (if such information has not previously been provided to the Town);
  - (4) Such additional information as is reasonably required by the Town to demonstrate compliance with the applicable Development Plat, applicable Conditional Use Permit or Planned Development Zoning District; and
  - (5) Such additional information as is reasonably required by the Town to prevent imminent destruction of property or injury to persons.
- (c) All applications for amended Oil/Gas Well Permits shall be filed with the Town Secretary, or assigns, it shall be immediately forwarded to the Planning and Zoning Commission 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 may retain a processing fee as determined by the Town. 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) If the activities proposed by the amendment are not materially different from the activities covered by the existing Oil/Gas Well Permit, and if the proposed activities are in conformance with the applicable Development Plat or applicable Conditional Use Permit, then the Planning and Zoning Commission shall have the authority to approve the amendment within 10 days after the application is filed.
- (e) If the activities proposed by the amendment are materially different from the activities covered by the existing Oil/Gas Well Permit, and if the proposed activities are in conformance with the applicable Development Plat or the applicable Conditional Use Permit, then the Planning and Zoning Commission shall approve the amendment within 30 days after the application is filed. If, however, the activities proposed by the amendment are materially different and, in the judgment of the Planning and Zoning

Commission, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing permit or that was not otherwise taken into consideration by the existing permit, the Planning and Zoning Commission may require the amendment to be processed as a new Oil/Gas Well Permit application.

- (f) The failure of the Planning and Zoning Commission to review and issue an amended Oil/Gas Well Permit within a reasonable specified time limit shall not cause the application for the amended permit to be deemed approved.
- (g) The decision of the Planning and Zoning Commission to deny an amendment to an Oil/Gas Well Permit shall be provided to the operator in writing within 10 days after the decision, including an explanation of the basis for the decision. The operator may appeal any such denial to the Town Council.

**O. Transfer Of Oil/Gas Well Permits**

An Oil/Gas Well Permit may be transferred by the operator without the consent of the Town Council if the transfer is in writing signed by both parties, if the transferee agrees to be bound by the terms and conditions of the transferred permit, if all information previously provided to the Town as part of the application for the transferred permit is updated to reflect any changes, if the transferee provides the insurance and security required by this Ordinance. The insurance and security provided by the transferor shall be released if a copy of the written transfer is provided to the Town. The transfer shall not relieve the transferor from any liability to the Town arising out of any activities conducted prior to the transfer. Additionally, the transferee shall notify all mineral owners of the transfer with copy to the Town on all correspondence.

**P. Remedies of the Town**

- (a) If an operator (or its officers, employees, agents, contractors, subcontractors or representatives) fails to comply with any requirement of a Oil/Gas Well Permit and/or these regulations (including any requirement incorporated by reference as part of the permit), the Town Engineer shall give written notice to the operator specifying the nature of the alleged failure and giving the operator a reasonable timeframe to cure, taking into consideration the nature and extent of the alleged failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In order to expedite the notice and cure for compliance, the written notice may be given to the operator by email, fax or overnight mail. Within seventy-two (72) hours of having received notice, the operator shall immediately take action to cure the alleged failure or respond, in writing, to the Town Engineer, with a course of

remedial action to be taken and/or alternate timeframe for compliance. The remedial action and/or alternate timeframe proposed by the operator must be approved by the Town Engineer. Approval by the Town Engineer shall not be unreasonably withheld or delayed. Failure of the operator to remedy the non-compliance or respond to the Town Engineer within 72 hours, shall be reason for the Town Council to revoke or suspend the Oil/Gas Well Permit. The Town Engineer and or the AVFD Chief is authorized to issue a Stop Work Order under the Fire Code.

- (b) If the operator does not cure the alleged failure within the time specified by the Town Engineer, the Town may notify the Railroad Commission and request that the Railroad Commission take appropriate action (with a copy of such notice provided to the operator), and the Town may pursue any other remedy available under this Ordinance or as the law provides.
- (c) If the operator does not cure the alleged failure within the time specified by the Town Engineer, upon his/her recommendation:
  - (1) The Town Council may suspend the Oil/Gas Well Permit until the alleged failure is cured; or,
  - (2) If the operator fails to initiate and diligently pursue a cure, the Town Council may revoke the Oil/Gas Well Permit.
- (d) The decision of the Town Engineer to recommend suspension or revocation of an Oil/Gas Well Permit shall be provided to the operator in writing at least ten (10) days before any action by the Town Council.
- (e) If an Oil/Gas Well Permit is revoked, the operator shall cease all operations until such time that a new permit is issued. The new permit application shall be processed in accordance with the provisions of this ordinance for new wells.

**Q. Enforcement, Right of Entry.**

The Town Attorney is authorized and directed to enforce this Ordinance and the provisions of any Oil/Gas Well Permit. Whenever necessary to enforce any provision of this Ordinance or an Oil/Gas Well Permit, or whenever there is reasonable cause to believe there has been a violation of this Ordinance or an Oil/Gas Well Permit, the Town Attorney, or his designated representative, may enter upon any property covered by this Ordinance or an Oil/Gas Well Permit at any reasonable time to inspect or perform any duty imposed by this Ordinance. If entry is refused, the Town shall have recourse to every remedy provided by law and equity to gain entry.

**R. 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 an Oil/Gas Well Permit issued under this Ordinance;
  - (2) fail to comply with any conditions set forth in an Oil/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 Two Thousand Dollars (\$2,000.00) per day, subject to applicable State law. Each day a violation occurs constitutes a separate violation.”

**SECTION 3.**  
**(CUMULATIVE CLAUSE)**

This Ordinance shall be cumulative of all provisions of Ordinances of the Town of Bartonville, 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 4.**  
**(SEVERABILITY CLAUSE)**

It is hereby declared to be the intention of the Town Council of The Town of Bartonville 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 should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the Town Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**SECTION 5.**  
**(SAVINGS CLAUSE)**

All rights and remedies of the Town of Bartonville are expressly saved as to any and all violations of the provisions of any Ordinances affecting the exploration, drilling or production of oil or gas, 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 6.**  
**(ENGROSSMENT AND ENROLLMENT)**

The Town Secretary of the Town of Bartonville is hereby directed to engross and enroll this Ordinance by copying the exact Caption, Penalty Clause and the Effective Date clause in the minutes of the Town Council of the Town of Bartonville and by filing this Ordinance in the Ordinance records of the Town.

**SECTION 7.**  
**(PUBLICATION)**

The Town Secretary of the Town of Bartonville is hereby directed to publish in the Official Newspaper of the Town of Bartonville the Caption, Penalty Clause and the Effective Date of this Ordinance two (2) days as required by Section 52.011 of the Local Government Code.

**SECTION 8.**  
**(EFFECTIVE DATE)**

This Ordinance shall be in full force and effect upon passage and publication in the official newspaper.

**AND IT IS SO ORDAINED.**

**PASSED AND APPROVED this the 18<sup>th</sup> day of November, 2008.**

APPROVED:

\_\_\_\_\_  
Ron Robertson, Mayor

ATTEST:

\_\_\_\_\_  
Debbie E. Millican, Town Administrator

(Seal)

## APPENDIX “E”

### Road Damage Remediation Agreement

STATE OF TEXAS                   §  
COUNTY OF DENTON           §  
TOWN OF BARTONVILLE       §

#### ROAD DAMAGE REMEDIATION AGREEMENT

**This Road Damage Remediation Agreement**, (hereafter the “Agreement”), is made and entered into on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Town of Bartonville, Texas (hereafter the “Town”), a municipal corporation and a Type “A” general law municipality of the State of Texas, located within Denton County, Texas; and \_\_\_\_\_ (hereafter the “Operator”) for the payment of fees for damage remediation of certain streets and/or roadways within the Town of Bartonville, Texas, as more fully described herein.

**WHEREAS**, Operator is in the business of drilling gas wells and, in connection therewith, shall be engaged in drilling and production activities on property identified on Operator’s gas well plat, which abuts or is adjacent to, and/or is accessed by roadways within the Town of Bartonville, and

**WHEREAS**, the nature of heavy vehicular traffic during natural gas well development (“drilling”), post-production well stimulation (“fracing”) and re-working activities will exceed the normal and anticipated use of the public roadways within the Town’s corporate limits; and

**WHEREAS**, according to the study commissioned by the City of Denton (and modified by the Town of Bartonville to reflect Bartonville roadway conditions), (hereafter the “Study”) the life expectancy of a roadway decreases with heavy vehicular traffic traveling upon it, and heavy equipment loads produce greater amounts of road distress according to the Study; and

**WHEREAS**, distress which may either be structural or functional, which in turn, increases overall maintenance oversight, repair, and replacement costs to the Town respecting the roadways, in connection with the Operator’s gas well drilling and production activities; and

**WHEREAS**, structural distress is recognized as the pavement’s ability to carry traffic and/or cracking or deterioration of the pavement section; whereas functional distress is recognized as the ride quality and safety of the pavement; and

**WHEREAS**, use of the roadways by the Operator for the purpose of performing the activities described hereinabove causes distress to the roadways as a result of their specific operations and such distress may be immediate or it may be gradual and delayed, and also will exceed the design criteria of said roadways, thus causing greater than ordinary wear and tear and damaging of the roadways; and

**WHEREAS**, the Town and Operator, for the mutual consideration hereinafter stated, desire to enter into this Agreement for Operator to compensate Town for the maintenance and damage remediation of such roadways for the duration of the term of this Agreement in consideration for Operator's use of such roadways for the purpose of the activities described hereinabove;

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the parties agree as follows:

**ARTICLE 1.**

**RECITALS**

The foregoing recitals are understood and agreed upon by the parties and are incorporated into the terms of this Agreement.

**ARTICLE 2.**

**DAMAGE REMEDIATION OBLIGATION**

1. **Fee:** Town and Operator understand and agree that use by Operator, its contractors, subcontractors, employees and agents (all hereafter referred to as "Operator") of roadways that abut and lead to the property for which a Gas Well Permit has been issued to Operator, will decrease the life expectancy of such roadways. Operator and Town agree that it is and will continue to be impracticable and extremely difficult to determine the actual amount of such damage. Therefore, Town and Operator hereby agree that Operator shall pay to Town a road damage remediation fee based upon the formula set forth in Exhibit "A" to this Agreement, a copy of which is attached hereto and incorporated herein. Both Town and Operator agree that the amount assessed pursuant to the formula set forth herein is the minimum value of the costs and actual damage and decreased life expectancy of roadways caused by the normal use of the roadways by Operator. Such sum of money shall be paid by Operator to the Town prior to the commencement of any activity under the Gas Well Permit. It is expressly understood and agreed that such formula and fee are not to be considered a penalty, nor a tax, but shall be deemed taken and treated as a fee that is roughly proportionate and necessary for Town to repair and maintain its roadways based upon normal usage by Operator acting in the ordinary course of its business.
2. **Truck Route:** Operator shall be liable for and shall pay additional road damage assessments should Operator deviate from the approved vehicle route depicted in Exhibit "B," attached hereto, as if fully incorporated herein.
3. **Timely Payment:** In the event that Operator does not timely and adequately make payment under this Agreement upon written demand of the Town, the Town has the authority to prohibit further use of its roadways by Operator's vehicles, to suspend any and all Gas Well Permits issued to Operator, and to make a claim on Operator's bond or other security instrument.

**ARTICLE 3.**  
**ROAD DAMAGE REMEDIATION FEE**

1. **Methodology:** The Road Damage Remediation Fee shall be calculated using the method outlined in Exhibit “A.” Replacement costs for asphalt and/or concrete road segments shall be determined from current fair market value cost per square yard of road surface material, including installation and labor. The Town shall provide as an attachment to this Agreement, a copy of the calculations directly related to the methodology used to determine the fee paid by Operator; such attachment is identified as Exhibit “A”, a copy of which is attached hereto and incorporated herein. The Town’s investigation and determination of any and all aspects of the above referenced methodologies constitute generally accepted practices of road replacement, repair, and maintenance professionals undertaking similar project evaluations at the same time, and in the same geographical area. The Town observes the same degree of care and skill generally exercised by professionals under similar circumstances and conditions.
  
2. **Payment Due:** The Road Damage Remediation Fee is required to be paid in full at the time of issuance of a Gas Well Permit, or with the Operator’s Notice of Activities pursuant to Section 3.1313 of the Town of Bartonville Code of Ordinances, as amended. Such permit application shall be considered administratively incomplete until this Agreement is executed, Road Damage Remediation Fee payment received, and both are on file with the Town.

**ARTICLE 4.**  
**TERM OF AGREEMENT**

This Agreement shall commence upon the date indicated above and shall continue in full force and effect until Operator has completed and/or permanently discontinued the activities upon the roadways, as described hereinabove.

**ARTICLE 5.**  
**INSURANCE AND INDEMNITY**

The Operator shall provide or cause to be provided the insurance and all other security required by Town Ordinances existing at that time regulating drilling operations and permitting of oil, gas, and mineral drilling and production. In addition, the Operator shall carry a policy or policies of insurance as specified herein. 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.

1. **General Requirements Applicable to All Policies:**
  - a. 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".

- b. Liability policies shall be written by carriers licensed to do business in Texas and with companies rated "A" or better by A.M. Best, or with non-admitted carriers that have a financial rating comparable to carriers licensed to do business in Texas approved by the Town. The "A" rating by A.M. Best shall be maintained for the policy period.
- c. Liability policies shall name as "Additional Insured" the Town and its officials, agents, employees, and volunteers.
- d. Certificates of insurance must be presented to the Town evidencing all coverage's and endorsements required by this ordinance, and the acceptance of a certificate without the required limits and/or coverage's shall not be deemed a waiver of these requirements.
- e. Claims made policies will not be accepted except for excess policies or unless otherwise provided by this Ordinance.
- f. Upon request, certified copies of all insurance policies shall be furnished to the Town.

## 2. **Required Insurance Coverages**

- a. Commercial General Liability Insurance.
  - 1. Coverage should be a minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage. This coverage must include premises, operations, blowout or explosion, products, completed operations, blanket contractual liability, underground property damage, broad form property damage, independent contractors protective liability and personal injury.
  - 2. Environmental Pollution Liability Coverage:
    - (a.) Operator shall purchase and maintain in force for the duration of the Oil or Gas Well Permit insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of that 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 a 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 (\$10,000,000) dollars.

(b.) Coverage shall apply to sudden and accidental pollution conditions resulting from escape or release of smoke vapors, fumes, acids, alkalis, toxic chemicals, liquids or gasses, waste material or other irritants, contaminants or pollutants.

(c.) 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.

- b. Automobile Liability Insurance. Minimum Combined Single Limit of \$500,000 per occurrence for Bodily Injury and Property Damage. Such coverage shall include owned, non-owned, and hired vehicles.
- c. Worker's Compensation Insurance. In addition to the minimum statutory requirements, coverage shall include Employer's Liability limits of at least \$100,000 for each accident, \$100,000 for each employee, and a \$500,000 policy limit for occupational disease, and the insurer agrees to waive rights of subrogation against the Town, its officials, agents, employees, and volunteers for any work performed for the Town by the operator.
- d. Excess (or Umbrella) Liability Insurance. Minimum limit of \$10,000,000 covering in excess of the preceding insurance policies.
- e. Control of Well Insurance.
  - 1. Minimum limit of \$5,000,000 per occurrence.
  - 2. Policy shall cover the Cost of controlling a well that is out of control, Re-drilling or Restoration expenses, Seepage and Pollution Damage. Damage to Property in the Operator's Care, Custody, and Control with a sub-limit of \$500,000 may be added.

### 3. **Indemnity:**

**TOWN SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, HELD HARMLESS AND RELEASED BY OPERATOR FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES FOR INJURY OR DEATH TO ANY PERSON, OR INJURY OR LOSS TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE COMPANY, OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF OPERATOR UNDER THIS AGREEMENT, INCLUDING**

CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF TOWN, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE TOWN UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. IT IS THE EXPRESSED INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS AGREEMENT IS AN INDEMNITY EXTENDED BY **OPERATOR** TO INDEMNIFY AND PROTECT **TOWN** FROM THE CONSEQUENCES OF THE **OPERATOR'S** AS WELL AS THE **TOWN'S** NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE.

## **ARTICLE 6.** **SECURITY**

1. **Security Required:** Security instruments that cover each well must be delivered to the Town before the issuance of the Oil/Gas Well Permit for the well. The instrument(s) must provide that it cannot be cancelled without at least thirty (30) days' prior written notice to the Town, except when this policy is being cancelled for nonpayment of premium, in which case 10 days advance written notice is required". The instrument(s) shall secure the obligations of the operator related to the well to:
  - a. Repair damage as determined by the Town Engineer excluding ordinary wear and tear, if any, to public streets, including but not limited to bridges, caused by the operator or by the operator's employees, agents, contractors, subcontractors or representatives in the performance of any activity authorized by or contemplated by the Oil/Gas Well Permit. The road maintenance bond shall be in an amount equal to no less than \$25,000 per roadway mile as depicted on the approved vehicle route map.
  - b. Comply with the provisions of this ordinance and/or pay fines and penalties imposed upon the operator by the Town for any breach of the Oil/Gas Well Permit.
    1. Single Wells. The amount of the security shall be a minimum of \$50,000 for any single well. Any operator who initially posted a \$50,000 bond, and whose well is in compliance with these regulations, is in the producing stage and all drilling operations have ceased, may submit an application to the Town to reduce the bond to \$25,000. During reworking operations, the amount of the bond shall be maintained at \$50,000.
    2. Multiple Wells. An Operator drilling or reworking between one and five wells at any given time may elect to provide a blanket bond in the principal minimum amount of \$150,000. If the Operator drills or reworks more than five wells at a time, the blanket bond shall be increased in increments of \$50,000 for each additional well.

2. **Form:** The security instrument(s) may be in the form of an irrevocable letter of credit or payment bond issued by a bank or surety approved by the Town. The instrument(s) shall run to the Town for the benefit of the Town, shall become effective on or before the date the Oil/Gas Well Permit is issued, and shall remain in effect until the well is abandoned and the site restored. The security instrument(s) must be provided by a surety company with an A.M. Best A rating that is licensed to conduct business in the State of Texas and shall be payable to the Town of Bartonville. Such surety company shall maintain an A.M. Best A rating for the policy period.
3. **Certificate of Deposit:** A certificate of deposit may be substituted for the letter of credit or payment bond. The certificate shall be issued by a bank in Denton County, Texas, shall be approved by the Town, shall be payable to the order of the Town to secure the obligations of the operator described above, and shall be pledged to the bank with evidence of delivery provided to the Town. Interest on the certificate shall be payable to the operator.
4. Operator who initially posted security, whose well is in the producing stage and all drilling operations have ceased, may submit an application to the Town to reduce the amount of the existing security.
5. **Termination:** The security will terminate when the Oil/Gas Well Permit is transferred, with respect to the operator-transferor and if the operator-transferee provides replacement security that complies with this section, when the well is abandoned and the site restored, and when the Town consents in writing to such termination.
6. **Appeal Procedure:** An appeal of the determination of the amount of security required under this Ordinance may be made to the Planning and Zoning Commission for recommendation to the Town Council for final determination of the amount of security.

## **ARTICLE 6.** **INDEPENDENT CONTRACTOR**

Operator understands and agrees that Operator, its employees, servants, agents, and representatives shall at no time represent themselves to be employees, servants, agents, and/or representatives of the Town. The Town shall not have any control over the means or methods by which Operator shall perform its obligations hereunder. Operator shall furnish all equipment and materials necessary to perform hereunder and shall at all times be acting as an independent contractor. No action by either party should be construed to create a partnership, joint venture, or other dual enterprise between the parties.

## **ARTICLE 7.** **GOVERNMENTAL IMMUNITY**

By entering into this Agreement, the Town does not waive, nor shall it be deemed to waive, any immunity or defense that would otherwise be available to it against claims arising by third parties.

**ARTICLE 8.**  
**NO IMPACT FEE**

Operator agrees that the Road Damage Remediation Fee provided hereunder is not an impact fee under Chapter 395 of the Texas Local Government Code, and expressly agrees that this Road Damage Remediation Fee is not a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to new development. Further, Operator agrees that the Road Damage Remediation Fee provided hereunder will not be credited to any subsequent roadway impact fees if the subject property is subdivided or developed in the future.

**ARTICLE 9.**  
**FORCE MAJEURE**

In the event that the performance by either party of any of its obligations or undertakings hereunder shall be interrupted or delayed by any occurrence and not occasioned by the conduct of either party hereto, whether such occurrence be an act of God or the common enemy or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not party or privy hereto, then such party shall be excused from performance for a period of time as is reasonably necessary after such occurrence to remedy the effects thereof, and each party shall bear the cost of any expense it may incur due to the occurrence.

**ARTICLE 10.**  
**ASSIGNABILITY/CONSENT**

Except as otherwise provided herein, or except as may be hereafter determined by the parties and added as a written amendment or modification hereto, no party to this Agreement may sell, assign, or transfer its interest in this Agreement, or any of its right, duties, or obligations hereunder, without the prior written consent of the other party.

**ARTICLE 11.**  
**NOTICE**

Any notice given by one party to the other in connection with this Agreement shall be in writing and shall be by personal delivery; sent by registered mail or certified mail; or by United States Mail, return receipt requested, postage prepaid; to:

TOWN:                      Town Administrator  
                                  Town of Bartonville, Texas  
                                  1941 E Jeter Rd  
                                  Bartonville, TX 76226

OPERATOR:                \_\_\_\_\_  
                                  \_\_\_\_\_  
                                  \_\_\_\_\_

Notice shall be deemed to have been received on the date of receipt as shown on the return receipt or other written evidence of receipt.

**ARTICLE 12.**  
**MODIFICATION**

No waiver, amendment, or modification of this Agreement or of any covenant, condition, limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. No evidence of any waiver or modification shall be offered or received in evidence in any proceeding arising between the parties hereto out of or affecting this Agreement, or the rights or obligations of the parties hereunder, unless such waiver, amendment, or modification is in writing, duly executed by both parties. The parties further agree that the provisions of this Article will not be waived unless as herein set forth.

**ARTICLE 13.**  
**SAVINGS/SEVERABILITY**

In the event that any one or more of the provisions, terms, phrases or clauses of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect; such invalidity, illegality, or unenforceability shall not affect the other provisions, terms, phrases or clauses of the provisions contained herein and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision, term, phrase, or clause had never been contained in this Agreement.

**ARTICLE 14.**  
**GOVERNING LAW AND VENUE**

This Agreement shall be construed under and governed by, and in accordance with the laws of the State of Texas, and venue for any action arising under the terms and conditions of this Agreement shall lie in the state courts located in Denton County, Texas.

**ARTICLE 15.**  
**ENTIRE AGREEMENT**

This Agreement and the appendices and other documents attached hereto and/or referenced herein, constitute the entire agreement among the parties hereto with respect to the subject matter hereof, and supersede any prior understandings or written or oral agreements between the parties with respect to the subject matter of this Agreement. No amendment, modification, cancellation or alteration of the terms of this Agreement shall be binding on any party hereto unless the same is in writing, dated subsequent to the date hereof, and is duly authorized and executed by the parties hereto. Notwithstanding the foregoing, this Agreement is cumulative of all applicable Town Ordinances, as amended.

**ARTICLE 16.**  
**NON-WAIVER**

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

**ARTICLE 17.**  
**CAPTIONS**

The captions contained in this Agreement are for informational purposes only and shall not in any way affect the substantive terms or conditions of this Agreement.

**ARTICLE 18.**  
**CONSTRUCTION OF AGREEMENT**

The parties hereto have negotiated the terms of this Agreement and therefore agree that as a negotiated document, this contract shall not be more strictly construed against either party.

**ARTICLE 19.**  
**COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties do hereby affix their signatures and enter into this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Town Secretary

“TOWN”  
TOWN OF BARTONVILLE, TEXAS

By: \_\_\_\_\_  
Mayor

“OPERATOR”

\_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**STATE OF TEXAS** §  
§  
**COUNTY OF DENTON** §

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, Mayor of the Town of Bartonville, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the Town of Bartonville, Texas and that he executed the same as the act of such Town of Bartonville, Texas for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this the \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

[SEAL]

\_\_\_\_\_  
Notary Public in and for the State of Texas

\* \* \* \* \*

**STATE OF TEXAS** §  
§  
**COUNTY OF \_\_\_\_\_** §

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, (title) for \_\_\_\_\_ (Entity Name of Operator), known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of \_\_\_\_\_ (Entity Name of Operator) and that he executed the same as the act of such Operator for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[SEAL]

\_\_\_\_\_  
Notary Public in and for the State of Texas.

**“EXHIBIT “A”  
ROAD DAMAGE REMEDIATION CALCULATION**

<b>Gas Well Plat</b> (Name of Plat) _____	<b>Truck Route</b> (Proposed Route) _____	<b>Length (Mi)</b> (x miles) _____
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<b>Water Supply (Hauled)</b>				
<u>Roadway Design Life</u> (ESAL's)	<u>Well Traffic Impact</u> (ESAL's)	<u>Consumptive Use</u> (%)	<u>Roadway Cost</u> (\$ per mile)	<u>Assessment Cost per Mile</u> (\$)
3300	2000	0.61	*	*

<b>Water Supply (On-Site)</b>				
<u>Roadway Design Life</u> (ESAL's)	<u>Well Traffic Impact</u> (ESAL's)	<u>Consumptive Use</u> (%)	<u>Roadway Cost</u> (\$ per mile)	<u>Assessment Cost per Mile</u> (\$)
3300	1121	0.34	*	*

**Fee Calculation**

Water Supply	<u>Assessment Cost per Mile</u> (\$)	<u>Length</u> (Mi)	=	<u>Roadway Assessment</u> (\$)
Hauled	*	x	=	
On-Site	*	x	=	

**Total Assessment**

\* Indicates costs and assessments that are amended from time to time as construction costs change. For current costs and assessments please refer to the Town’s most recent adopted Fee Schedule.

Note: This assessment is intended to assess the developers of gas wells in Bartonville for that portion of the useful life of public roadways consumed by truck traffic that serves those wells. Payment of this assessment does not absolve the developer of the responsibility to post a road repair bond to ensure repair of visible damage to the roadway.”

**EXHIBIT "B"**  
**VEHICLE ROUTE**