TITLE Xl: BUSINESS REGULATIONS

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2018 s-1

Rose Hill Acres - Business Regulations

CHAPTER 110: GENERAL PROVISIONS

Section

110.01 Business licenses

 110.01 BUSINESS LICENSES.

The Board of Aldermen hereby supports a moratorium of the issuance of all building permits, business licenses, special use permits, or certificates of occupancy of any kind that could be used to authorize the creation or construction including, but not limited to, any new residence, business or the remodeling of either involving new plumbing, electrical, concrete slab, and new room additions as the term is defined in the town code of ordinances. (Res. 2015-06-09-01, passed 5-12-2015)

Rose Hill Acres - Business Regulations

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GENERAL PROVISIONS

 111,001 DEFINITIONS.

For the purpose of this chapter, all technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have that meaning customarily attributed to them by the oil and gas industry. The following words and terms wherever and whenever used or appearing in this chapter shall have the scope and meaning hereinafter defined and set out in connection with each.

APPLICANT. Any person who applies for a drilling or seismic testing permit hereunder.

APPROVED, APPROVED TYPE, or APPROVED DESIGN. Improvements, equipment, or facilities of a type or design approved by the Building Official.

BUILDING CODE. The portion of this chapter or any ordinance of the town known by that title and all amendments thereto.

BUILDING OFFICIAL. A references to the elected Mayor or his or her designee for the town.

BUILDING PERMIT. The permit required by the Building Code.

COMPLETION OFDRILLING. A well is completed, for the purpose of these regulations, 30 days after the drilling crew has been released. The drilling crew is released within the meaning of this definitions when work at the well site for drilling or completing the well is suspended, either temporarily or permanently.

DERRICK. Any structure, improvement, equipment, or facility, and each and every part thereof, whether completed or not, and which is required, or used or useful for, or in connection with drilling, operating, or maintaining a well for the production of oil, gas, or other hydrocarbons from the earth, together with all parts of and appurtenances to such structure, improvement, equipment, or facility, including, but not limited to, foundations and sills therefor, pump houses, engine-houses, or housings, pipe-racks, postings, walkways, mud-ditches, and crown blocks.

DESIGNATED AGENT. The designated agent of the applicant or permittee.

DILIGENCE. The drilling derrick is in its operating position over the well, properly anchored, and supported, and that an operating crew is on duty at the drill site at all reasonable times.

DRILL SITE. The premises used during the drilling and subsequent life of a well or wells, which is necessary for the safe operations thereof.

DRILLING. Entry onto the site with equipment and/or personnel for the specific purpose of actually opening a well-hole intended to produce oil or gas.

ERECT. To build, construct, install, assemble, put together, improve, alter, move, reconstruct, restore, renovate, renew, or repair any building, structure, improvement, or facility, or any part or portion thereof or foundations therefor, or appurtenance thereto, whether or not such building, structure, improvement, or facility is completed, or to work upon, or in any way assist in such erection.

FLAMMABLE LIQUIDS. Oil and other fluid hydrocarbons, including liquefied gases or other flammable liquids, having a flash point below 200 0 F. The flash point of all commodities shall be determined by the Elliot, Abel, Abel-Pensky, or Tag closed cap testers, but the Tag closed cap tester, standardized by the National Institute of Standards and Technology, shall be authoritative in case of dispute. All tests shall be in accordance with the methods adopted by the American Society for Testing Materials, and approved by the American National Standards Institute, or its successors.

GAS. The gaseous components or vapors occurring in or derived from petroleum or natural gas.

LESSEE. The possessor of the right to explore and recover minerals from the premises.

LESSOR. The owner of mineral rights.

MAINTAIN. To repair, or otherwise keep or place in working condition, and also to permit, or authorize to exist, regardless of whether any actual maintenance work is done. For the purposes of this chapter, an oil well, well-hole, derrick, and production equipment, shall be deemed to be MAINTAINED upon the premises in and upon which the same were or are being drilled, erected, or installed, until the following tasks are accomplished:

1. Every part of such derrick and production equipment shall be removed from the drill site;
2. All requirements for abandonment established by the state and any other regulatory authority having jurisdiction must be met;
3. All sumps, cellars, rotary mud, concrete, oil, and rubbish must be removed and the drill site cleaned and all ditches must be leveled; and
4. All property of the town which may have been disturbed or damaged by the operations at the drill site shall be repaired and cleaned as needed and restored to substantially the same condition as existed at the time of the issuance of the permit.

MAINTENANCE. The repair and replacement of parts of a structure when the repair or replacement does not alter or lessen the strength or stability of the structure.

NON- URBANIZED DRILLING SITE. A drill site shall be considered non-urbanized ifno occupied commercial, residential, or industrial structure exists in use within 1 ,000 feet of the proposed well-hole.

OCCUPIED STRUCTURE. only those structures that are regularly occupied by persons at least 20 hours per week.

OIL. Petroleum and other fluid hydrocarbons obtained from the earth.

OPERATE. To work or act upon, or to cause or permit natural or artificial forces to function in connection with any structure, plant, equipment, machinery, or facility with the purpose of utilizing the same for the purpose for which it was or is erected or maintained, or for any other purpose, and when used with reference to a well, well-hole, derrick, or production equipment, means and includes any acts or functions performed or permitted to occur in connection with such well, well-hole, derrick, or production equipment from and after the completion of the drilling of the well, for the purpose of producing or obtaining oil, gas, or other hydrocarbons from the ground, and for the purpose of collecting and handling the same and making deliveries thereof at the well or from the shipping tanks or lease tanks in the vicinity of the well. OPERATE includes all functions performed or permitted to occur in connection with such production, collection, handling, and delivery , including the repair, reconditioning, restoration, perforating, redrilling, or deepening of said well or well-hole, and the dehydration or cleaning of said oil prior to making such deliveries as aforesaid.

OPERATOR. The person, whether owner, lessee, or independent contractor, actually in charge and in control of the drilling, maintenance, operation, or pumping of a well or lease.

OWNER. A person who has legal or equitable title to the surface of the drill site.

PEAK PANICLE VELOCITY. The maximum rate of ground movement measured by any of the three mutually perpendicular components of ground motion.

PERMIT or DRILLING PERMIT. The written, typed, or printed permission issued to an applicant

by the Building Official under the authority of this chapter.

PERMITTEE. Any person to whom a permit has been granted and issued under and pursuant to the terms of this chapter by the Building Official.

PERSON. An individual; a receiver; a trustee; a partnership; a joint adventure; a firm; an unincorporated association; a syndicate; a club; a society; a trust; a private corporation; a public corporation; a municipal corporation; a county, a state, or national government; a commission; a water district; a utility district; a political subdivision; and a drainage, irrigation, levee, reclamation, flood control, or water conservation district, whether acting for himself, herself, or itself or in any representative capacity.

POINT OF IMPULSE. The location of the source of energy used in seismic testing. This definition shall include energy caused by detonation of explosive charges or through the use of mechanical devices such as vibratory trucks, if approved by the town.

PRODUCTION EQUIPMENT. Pumping equipment, tubing, pipes, gauges, meters, valves, oil and gas separators, sumps, flood tanks, production tanks, shipping tanks, lease tanks, shipping pumps, loading racks, and all other structures, machinery, equipment, and facilities, and each and every part thereof, whether completed or not, required for or used or useful in connection with the operation, repair, reconditioning, redrilling, or maintenance of a well or well-hole, and the collection, handling, and delivery of oil, gas, or other hydrocarbons therefrom, and which structures, machinery, equipment, and facilities are not included in the derrick, well, or well-hole, as heretofore defined. PRODUCTION EQUIPMENT also includes any wash tanks, dehydration plant, or other equipment or facility operated or maintained by or on behalf of the operator of said well for the purpose of separating sand, water, and other foreign substances from the oil, gas, or other hydrocarbons produced or obtained by said operator, prior to shipping or delivering said oil from the shipping tanks or lease tanks of the well, or in the vicinity thereof.

REDRILLING. The deepening of an existing oil well or otherwise drilling beyond the extremities (to the side) of the existing well casing. The provisions of this chapter relating to drilling shall be equally applicable to REDRILLING.

STRUCTURE. That which is built or constructed for the purpose of human habitation and occupancy.

SUSPENDED OPERATIONS. The approved temporary suspension of drilling or redrilling operations, pending resumption of operations or abandonment.

TANK. A container, covered or uncovered, used in conjunction with the drilling or production of an oil well, for holding or storing liquids at or near atmospheric pressure.

TOWN. The Town of Rose Hill Acres, Texas.

TOWN BUILDING INSPECTOR. A certified inspector appointed by Town Board or his or her designee.

URBANIZED DRILLING SITE. A drill site shall be considered urbanized where an occupied commercial, residential, or industrial structure exists within 1,000 feet of the proposed well-hole.

WELLHEAD. Composed of the casinghead,  tree, and all well connections.

(Ord. 2011-12-06-02, passed 12-6-2011)

 111.002 VIOLATIONS; SUSPENSION OR REVOCATION OF PERIVIIT; APPEALS.

1. Any permit may be suspended or revoked for any material violation of the conditions of the permit by the permittee or for persistent violation of any law by the permittee in the operation of any such well. The Town Building Inspector shall not revoke any permit without first giving the permittee ten days' written notice of the nature of the violations and of the intention to revoke such permit. The permittee shall at once cease drilling or seismic testing operations after receipt of notice of intent to revoke this permit. If, within such ten-day period, the permittee requests a hearing before the Town Building Inspector, the Town Building Inspector shall grant such hearing within 15 days after the date of such request.
2. At such hearing, evidence shall be presented to establish to the satisfaction ofthe Town Building Inspector the extent and nature of the violation, which constitutes grounds for the revocation, and the permittee shall be given an opportunity to cross-examine all witnesses testifying at such hearing. The permittee shall hereafter be permitted at that hearing, or at a continued hearing, if a continuance is requested by the permittee, to present evidence to disprove or explain such alleged violations. The Town Building Inspector shall thereupon, after hearing all the evidence, determine whether or not the permit should be revoked, and his or her determination thereon shall be final. If the Building Official determines that the permit should be revoked, the permittee may appeal the decision of the Building Official to the Town Board of Aldermen.

(Ord. 2011-12-06-02, passed 12-6-2011)

 111.003 INTENT.

The intent of this chapter is to govern seismic testing and oil and gas drilling in the town and its extraterritorial jurisdiction.

(Ord. 2011-12-06-02, passed 12-6-2011)

 111.004 EFFECTIVE DATE.

This chapter shall take effect immediately from and after its passage, subject to whatever publication that may be required by law.

(Ord. 2011-12-06-02, passed 12-6-2011)

PERMITS, BONDS AND INSPECTIONS GENERALLY

 111,015 PERMIT REQUIRED; DRILLING OR SEISMOGRAPHIC TESTING.

1. No person shall conduct any drilling, redrilling, or seismic testing within the corporate limits of the town without having obtained a permit for said drilling, redrilling, or seismic testing under this chapter.
2. It is hereby declared a nuisance for any person to conduct any drilling operations within 2,000 feet of the property line of any school of the Lumberton Independent School District or properties under its control without the prior written consent of the Board of Trustees oftaid District, or within 2,000 feet of the property line of any parochial or charter school without the prior written consent of the Board of Trustees or other governing body of said schools. It is hereby declared a nuisance for any person to conduct any drilling operations within 2,000 feet of a property line of any hospital, church, convalescent home, orphanage, or nursing home located within the town limits of the town without the prior written consent of the owner or owners thereof. It is hereby declared a nuisance for any person to conduct any drilling or redrilling operation outside the town limits of the town closer than 1 , 000 feet to any occupied structure other than a school, hospital, church, convalescent home, orphanage, public parks, or nursing home located within such town limits without obtaining a permit for said drilling or redrilling under this chapter.
3. It is hereby declared a nuisance for any person to construct any storage tank or tanks within 1 ,000 feet of the property line of any school of the Lumberton Independent School District or properties under its control without the prior written consent of its Board of Trustees, or within 1 ,000 feet of the property line of any parochial or charter school without the prior written consent of the Board of Trustees or the governing body of said schools or within 1 ,000 feet of any hospital, church, convalescent home, orphanage, public parks, or nursing home located either within or outside the town limits without the prior written consent of the owner or owners thereof.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.016 REVIEW AND ACTION ON DRILLING, REDRILLING PERNIIT APPLICATION; APPROVAL OR DISAPPROVAL OF OPERATIONS.

1. (1) For all drilling and redrillling permit applications where the well-hole is within a distance of 1,000 feet of a structure, it shall be the responsibility of the Town Building Inspector to review impartially and to recommend to the Town Board of Aldermen the approval or disapproval of said application. The Town Board of Aldermen, based on the criteria established herein, may require the applicant for a permit hereunder to do those things necessary to ensure the health, safety, and welfare of the citizens of town.
   1. The Board of Aldermen shall review the applications according to the following criteria:
      1. The proposed drilling operation will be compatible with and not injurious to the use and enjoyment of other property, nor significantly diminish or impair property values within the immediate vicinity;
      2. The drilling operation will not impede the normal and orderly development and improvement of surrounding vacant property;
      3. Adequate utilities, access roads, drainage, and other necessary supporting facilities have been or will be provided;
      4. The design, location, and arrangement of all driveways and parking spaces provided for the sale and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;
      5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
      6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
      7. There is sufficient landscaping and screening to ensure harmony and compatibility with adjacent property. In authorizing a drilling operation, the Board of Aldermen may impose additional reasonable conditions necessary to protect the public interest and welfare of the community.
2. (1) For all drilling and redrillling permit applications where the well-hole is at a distance that is greater than 500 feet from any structure, it shall be the responsibility of the Town Building Inspector to review impartially and to approve or disapprove said applications.
   1. The Town Building Inspector, based upon the criteria established herein, may require the applicant for a permit hereunder to do those things necessary to ensure the health, safety, and welfare of the citizens of the town. Items required shall be clearly stated in the permit issued hereunder.
3. The Town Building Inspector is hereby authorized to approve or disapprove the actions of the permittee not otherwise covered by the permit application during the drilling and post-drilling operations in accordance with the terms of this chapter only. (Ord. 2011-12-06-02, passed 12-6-2011)

S 111.017 FORM OF DRILLING PERMIT APPLICATION; PERMIT FEE,

1. Applications for permits to drill or redrill any oil or gas well shall be made in writing to the Building Official and shall include the following:
   1. The legal description of the proposed drill site and the legal description of the real property in the town which the applicant proposes to explore for oil and gas purposes. A map shall be attached to the application, which map shall clearly show and outline the proposed drill site with reference to existing town streets or town limits;
   2. A statement of what property the applicant has the right, by reason of ownership or permission of the owner, to pass through and enter for drilling purposes and a further statement that the applicant agrees, in finally locating the well, not to pass through or enter any property where he or she does not have such right;
   3. The proposed location, type, kinds, size, and amount of major equipment and a general description and the method of operation of the proposed well;
   4. The proposed method of handling and using any product proposed to be developed at the well site and the proposed method of disposing of all waste products anticipated; and
   5. A statement from a licensed surveyor or registered professional engineer verifying the drill site as being either an urbanized or a non-urbanized drilling site as defined herein.
2. Each application shall state the maximum depth to which the applicant desires to drill, and each application shall be accompanied by an application fee of $0.10 per foot of depth. The maximum fee for any one well shall be $5,000. Should the applicant drill to a greater depth than that stated in his or her application, a supplemental fee shall be required based upon the increased depth.

(Ord. 2011-12-06-02, passed 12-6-2011)

111.018 NOTIFICATION AND PUBLIC 1--ÆARING REQUIREMENTS FOR DRILLING PERMITS.

(A) (1) No application for a drilling or redrilling permit where the well-hole distance is 1,000 feet of a structure shall be approved or disapproved until after a public hearing in relation thereto is held by the Board of Aldermen at which parties in interest and citizens shall have an opportunity to be heard. At least seven days' notice of the time and place of such hearing shall be published in an official paper, or a paper of general circulation in the town.

(2) Written notice of all public hearings before the Town Board on drilling and redrilling permits shall be sent to owners of real property lying within 1,000 feet of the proposed well-hole, such notice to be given not less than ten days before the date set for hearing, to all such owners who have rendered their said property for county taxes as the ownership appears on the last approved county tax roll.

(B) (1) The permittee shall publish notices in the local newspaper in themanner and order set forth below:

(a) First notice.

* + - 1. To be published at least three days prior to the start of any drilling, blasting, and/or vibratory testing; and
      2. Running time: one day.

(b) Second notice.

* + - 1. To be published on the day which drilling, blasting; and/or vibratory first begins;
      2. Running time: one day;
      3. Such work may continue no more than three consecutive working days of nonproduction;
      4. If drilling, blasting, and/or vibratory testing does not occur during this time, another notice must be published on the day such work will restart. Additional notices must be republished to coincide with intermittent work; and
      5. Running time: one day each occurrence.

(c) Final notice.

* + - 1. To be published when any such drilling, blasting, and/or vibratory testing is approximately 50% complete; and
      2. Running time: one day.
  1. Aforementioned notices shall appear in the classified section under legal notices. The notice shall indicate the scope of operations to be performed and will detail the approximate dates and time (starting and ending) and general location of work to be performed.
  2. The town shall be notified when the notice has been placed with the newspaper and what dates it will be published.

1. (1) The permittee is required to notify the following entities or persons 24 hours prior to the start of any drilling, blasting, or vibrancy testing:
   * 1. The Mayor or his or her designee;
     2. Hardin County ESD2; and
     3. Additionally, blasting requires notification to all residents that reside along or abuts the route where testing will be conducted

(2) (a) If more than three consecutive working days of non-production occurs, the permittee must contact the Town Building Inspector and the Fire Department 24 hours in advance of any blasting to be done after a period of intermittent work.

(b) In addition, the permittee is required to notify any and all other entities, directly or indirectly, involved through other permits or agreements.

(Ord. 2011-12-06-02, passed 12-6-2011)

 111.019 BOND REQUIRED; AMOUNTS AND CONDITIONS; REDUCTION.

1. Generally. Prior to the issuance of drilling or redrilling permit hereunder, the applicant shall furnish the Building Official with a bond in the principal sum of $75 ,000 per drill site. Such bond shall be executed by an insurance company authorized to do business in the state, as surety, and with the applicant as principal, naming the town, for the benefit of the town, conditioned that the permittee will comply with the terms and conditions of this chapter. In addition, the bond will be conditioned that the applicant will promptly pay fines, penalties , and other assessments imposed upon the applicant by reason of the breach of any of the terms, provisions, and conditions of this chapter, and that the applicant will promptly restore to their former condition street\* sidewalks, and other public property which may be damaged in drilling operations; and that the applicant will comply with all fencing, screening, and site restoration requirements of this chapter. If at any time the Building Official should find the applicant's bond to be insufficient for any reason, he or she may require the applicant to file a new bond.
2. Reduction of amount of bond. Upon written request from a permittee, who has complied with all provisions of this chapter, the Building Official may permit a reduction of the permittee's bond to a sum of not less than $10,000 per drill site for the remainder of the time such well produces.

(Ord. 2011-12-06-02, passed 12-6-2011)

 111.020 INSURANCE REQUIRED; TYPES AND AMOUNTS.

 (A) (1) Prior to issuance of drilling or redrillling permit hereunder, the applicant shall furnish the Building Official with a certificate of insurance showing a valid policy or policies of public liability insurance, covering bodily injuries and property damage.

(2) Said insurance shall be written by a company authorized to do business in this state.

(B) Such policies shall provide for the following minimum coverage:

* 1. Bodily injuries and general liability, one occurrence: $5,000,000 in an urbanized area;
  2. Property damage: $2,500,000 in an urbanized area;
  3. Bodily injuries and general liability, one occurrence: $2,500,000 in a non-urbanized area; and
  4. Propeny damage: $1,000,000 in a non-urbanized area. (Ord. 2011-12-06-02, passed 12-6-2011)

 111.021 WAIVER OF BOND AND INSURANCE TO FINANCIALLY RESPONSIBLE PERSON.

The Mayor or designee may waive the requirements for surety bond and policies of insurance as required in this chapter as to any drilling or re-drilling permittee who can show and is financially responsible and capable of meeting obligations for amounts in excess of $10,000,000, Upon the permittee filing with the Mayor or designee in lieu of any such surety bond or insurance policies a letter of acceptance and indemnity approved by the Town Attorney, binding and obligating such permittee to abide by the conditions for which surety bond and insurance policies are required as prescribed in this chapter; also agreeing to indemnify and hold the town harmless from any and all liability growing out of or attributable to the granting of any and all permits to such permittee including acts or omissions of the town, its officers, agents, and employees in connection with said drilling permit.

(Ord. 2011-12-06-02, passed 12-6-2011)

 111.022 PERMIT TRANSFER APPROVAL.

All permits granted under this chapter shall be transferable upon approval of the Building Official, after a determination that all requirements of this chapter are met by the transferee. (Ord. 2011-12-06-02, passed 12-6-2011)

S 111.023 LAPSE OF PERMIT; TIME; WORK WITHOUT PERMIT PROHIBITED;

EXTENSION OF

1. Generally.
   1. The drilling permit shall become null and void unless the permit is accepted by the applicant in its entirety in writing, filed with the Building Official within 30 days from the effective date thereof, and no work on such drill site shall be commenced until such permit is issued and accepted.
   2. The drilling permit shall become null and void unless drilling is commenced within 180 days of the effective date of the permit.
2. Extension of time.
   1. Whenever a person holding a drilling, redrillling, or seismic testing permit pursuant to the provisions of this chapter wishes to request an extension of the time within which drilling, redrillling, or seismic testing operations are required to be commenced to a period beyond 180 days after the effective date of the permit, a request for such extension shall be filed with the Town Building Inspector in writing and be accompanied by a fee in the amount of $125 for each location for which an extension is requested.
   2. Such request for an extension shall set forth facts showing good cause for the Building Official to allow additional time for the commencement of the operation.
   3. When good cause is shown, the Building Official shall grant an extension not to exceed an additional 180 days.

(Ord. 2011-12-06-02, passed 12-6-2011)

111.024 INDEIT\TIFICATION OF TOWN FOR DAMAGES.

The permittee shall indemnify and save harmless the town, its officers, agents, and employees from any and all claims, causes of action, and damages of every kind, for injury to or death to any person and damages to properly arising out of the operation under any drilling permit and including acts or omissions of the town, its officers, agents, and employees in connection with said drilling permit.

(Ord. 2011-12-06-029 passed 12-6-2011)

PERMITS, BONDS, INSPECTIONS AND NOTIFICATIONS; SEISMIC TESTING

 111.035 PERI%d1T REQUIRED; FEES; SEISMIC TESTmG.

It shall be unlawful for any person to conduct seismographic testing within the town without a permit, as set out below: seismographic permits (within the town): $1,000, plus $100 per shot hole on town property where allowed.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.036 REVIEW AND ACTION ON SEISMIC PERIVIIT APPLICATION; APPROVAL OR DISAPPROVAL OF OPERATIONS.

1. It shall be the responsibility of the Building Official to review impartially and to approve or disapprove all applications for seismic testing permits.
2. The Building Official, based upon the criteria established herein, may require the applicant for a permit hereunder to do those things necessary to ensure the health, safety, and welfare of the citizens of the town.
3. Items required shall be clearly stated in the permit issued hereunder.
4. The Town Building Inspector is hereby authorized to approve or disapprove the actions of the permittee not otherwise covered by the permit application during the seismic testing and post-testing operations in accordance with the terms of this chapter only.
5. The Town Building Inspector shall issue or deny a permit within 30 days of receipt of a properly completed application for seismic testing.
6. If the Town Building Inspector denies a seismic testing permit, he or she shall notify the applicant in writing of such denial and the reasons therefor.
7. If the Town Building Inspector grants a seismic testing permit, the permit, in a form as determined by the Town Building Inspector, shall be mailed to the applicant.

(Ord. 2011-12-06-02, passed 12-6-2011)

 111.037 FORM OF PERMIT APPLICATION; PERMIT FEE.

Each application for a seismic testing permit shall be made in writing to the Building Official and shall include the following:

1. A map at a scale of 1 :200 showing the location of the proposed seismic survey, including cable routes and points of impulse, when applicable. This map shall clearly show town limit, streets, and parcel boundaries;
2. A statement of what property the applicant has the right, by reason of ownership or permission of the owner, to pass through and enter for seismic testing purposes;
3. The proposed location, type, kinds, size, and amount of major equipment and a general description and the method of operation of the proposed testing;
4. A statement from a licensed professional engineer who will act as the third party engineer, stating that he or she will be on the job site during the entire period of testing to monitor peak particle velocity levels and to mitigate any potential damage to public or private property;
5. Each application shall state the depth to which the applicant desires to drill and the size and type of charges that will be used during the course of testing;
6. All required explosive permits issued by the District Il Fire Marshal; and
7. Any other permits required by another other governmental entity.

(Ord. 2011-12-06-02, passed 12-6-2011)

 111.038 SEISMIC TESTNG REQUIREIVÆNTS AND RESTRICTIONS.

Each seismic testing operation shall be limited to the following restrictions.

1. No point of impulse using an explosive charge shall occur within 500 feet of any above-ground or below-ground structure.
2. No point of impulse using an explosive charge shall occur within 500 feet of any pipeline without written consent of the pipeline or facility owner.
3. No point of impulse using mechanical vibration (vibratory trucks) shall occur within 500 feet of any structure and shall occur only on private property with the expressed, written consent of the property owner of the property containing the mechanical point of impulse.
4. No point of impulse shall be used on town streets.
5. No point of impulse shall be used on town property without written permission from the Director of Public Works and only if the distance requirements outlined in this section are adhered to.
6. The applicant shall obtain written permission from property owners before entering upon or crossing their property.
7. Utilizing third party engineers for monitoring, no structure shall be subject to any peak particle velocity of ground motion in excess of one-half inches per second.
8. Testing and associated drilling shall occur on weekdays only (Monday through Friday) between the hours of 6:00 a.m. and 6:00 p.m. No testing, drilling, or hauling of equipment shall be allowed at night, on weekends, or holidays, recognized as such, by the town.
9. The permittee shall immediately notify the town of any and all complaints of damage.

(Ord. 2011-12-06-02, passed 12-6-2011) 

111.039 REPRESENTATIVE OPERATIONS SUPERVISOR.

1. The applicant or permittee shall designate a competent representative who shall be responsible for the supervision of seismic testing operations and the carrying out of the conditions of any permit.
2. Such representative shall be available at all times during seismic testing operations and shall be the responsible contact agent of the applicant or the permittee whom the Town Building Inspector may require to carry out the provisions of the permit.

(Ord. 2011-12-06-02, passed 12-6-2011)

111.040 NOTIFICATION FOR SEISvnc TESTNG.

1. (1) Thepermittee shall publish notices inthe local newspaper inthemanner and order set forth below:

(a) First notice.

1. To be published at least three days prior to the start of any seismic testing; and

2. Running time: one day.

(b) Second notice.

10 To be published on the day which seismic testing first begins; and

20 Running time: one day.

(c) Consecutive working days.

* + - 1. Such work may continue no more than three consecutive working days of nonproduction.
      2. If seismic testing does not occur during this time, another notice must be published on the day such work will restart.
      3. Additional notices must be republished to coincide with intermittent work; running time: one day each occurrence.

(d) Final notice. To be published when any such seismic testing is approximately 50% complete; running time: one day. Aforementioned notices shall appear in the classified section under legal notices. The notice shall indicate the scope of operations to be performed and will detail the approximate dates and time (starting and ending) and general location of work to be performed.

* 1. The town shall be notified when the notice has been placed with the newspaper and what dates it will be published.

1. (1) The permittee is required to notify the following entities 24 hours prior to the start of seismic testing: the Town Building Inspector, Fire Department, Fire Marshal, and all residents abutting the test route.
   1. If more than three consecutive working days of non-production occur, the permittee must contact the Town Building Inspector and Fire Department 24 hours in advance of any blasting to be done after a period of intermittent work.
   2. In addition, the permittee is required to notify any and all other entities, directly or indirectly, involved through other permits or agreements.
2. (1) The Board of Aldermen will allow the permittee the option of phoning residents and speaking with them or leaving a message on an answer machine or mailing a publishing notification to each resident instead of newspaper notices as found in divisions (A)(l)(a) and (A)(l)(b) above.
   1. Notification to the Town Building Inspector shall be given three days prior to seismic testing.
   2. Notification to the Town Building Inspector shall be given when any such seismic testing is approximately 50% complete and an estimated date of completion will be given at that time.
   3. Notification to the Town Building Inspector shall be given when any such seismic testing is complete.

(Ord. 2011-12-06-02, passed 12-6-2011; Ord. 2012-05-17-02, passed 5-17-2012)

 111.041 BOND REQUIRED; AMOUNTS AND CONDITIONS.

1. Prior to the issuance of any seismic permit hereunder, the applicant shall furnish the Town Building Inspector with a performance bond in the principal sum of $100,000.
2. The bond shall be payable to the town for the use and benefit of any person entitled thereto and conditioned that the principal and bond will pay all damages to any person caused by, or arising from, or growing out of any violation of the terms of this permit.
3. Such bond shall be executed by an insurance company authorized to do business in the state, as surety, and with the applicant as principal, naming the town for the benefit of the town conditioned that the permittee will comply with the terms and conditions of this chapter,
4. In addition, the bond will be conditioned that the applicant will promptly pay fines, penalties, and other assessments imposed upon the applicant by reason of the breach of any of the terms, provisions, and conditions of this chapter, and that the applicant will promptly restore to their former condition streets, sidewalks, and other public property which may be damaged in seismic operations e
5. If at any time the Town Building Inspector should find the applicant's bond to be insufficient for any reason, he or she may require the applicant to file a new bond.

(Ord. 2011-12-06-02, passed 12-6-2011)

 111.042 INSURANCE REQUIRED; TYPES AND AMOUNTS.

1. (1) (a) Prior to issuance of any seismic permit hereunder, the applicant shall furnish the Building Official with a certificate of insurance showing a valid policy or policies of public liability insurance, covering bodily injuries and property damage.
   1. Said insurance shall be written by a company authorized to do business in this state.
   2. The applicant shall provide at least 15 days' written notice of any cancellation or modification of such insurance.

(2) Such policies shall provide for the following minimum coverage:

* 1. Bodily injuries: $300,000 per person, $1,000,000 per incident; and
  2. Property damage: $1,000,000.

1. The licensee shall purchase and maintain the following insurance coverage throughout the term of this license agreement:
   1. Worker's compensationinsurancemeeting applicable statutory requirements and employer's liability insurance with minimum limits of $100,000 for each accident;
   2. Commercial general liability insurance, or any combination of general liability and umbrella or excess insurance, with minimum limits of $2,000,000 as the combined single limit for each occurrence of bodily injury, personal injury, and property damage. The policy shall provide blanket contractual liability insurance for all written contracts and shall include coverage for products and completed operations liability, and independent contractor' s liability; coverage for property damage. The insurance coverage must be written by a company or companies approved to conduct business in the state. The town, its officers, and employees, must be named as an additional insured on the policy;
   3. Automobile liability insurance covering all owned, hired, and non-owned vehicles in use by the grantee, its employees, and agents, with personal protection insurance and property protection insurance to comply with the provision of state law with a minimum limits of $2,000,000 as the combined single limit for each occurrence for bodily injury and property damage;
   4. The town will accept certificates of self-insurance, which provide the same coverage as required herein, so long as the licensee demonstrates by written information to the Town Mayor that it has adequate financial resources to be a self-insured entity; and
   5. (a) All policies other than those for worker's compensation shall be written on an occurrence and not on a claims made basis and shall name the town, its officers, and employees as additional insureds.

(b) All insurance carriers and surplus line carriers shall be rated A + or better by A.M. Best Company.

(Ord. 2011-12-06-02, passed 12-6-2011; Ord. 2012-02-14-03, passed 2-14-2012)

 111.043 PERMIT TRANSFER APPROVAL,

All seismic permits granted under this chapter shall be transferable upon approval of the Building Official, after a determination that all requirements of this chapter are met by the transferee. (Ord. 2011-12-06-02, passed 12-6-2011)

 111.044 LAPSE OF PERI%d1T•, T11%dE; WORK WITHOUT PERMIT PROHIBITED.

1. The seismic permit shall become null and void unless the permit is accepted by the applicant in its entirety in writing, filed with the Town Building Inspector within 30 days from the effective date thereof, and no work on such drill site shall be commenced until such permit is issued and accepted.
2. The seismic permit shall become null and void unless seismic testing is commenced within 180 days of the effective date of the permit.

(Ord. 2011-12-06-02, passed 12-6-2011)

111.045 INDEMNIFICATION OF TOWN FOR DAMAGES.

The permittee shall indemnify and save harmless the town, its officers, agents, and employees from any and all claims, causes of action, and damages of every kind, for injury to or death to any person and damages to property arising out of the operation under any seismic testing permit and including acts or omissions of the town, its officers, agents, and employees in connection with said seismic permit.

(Ord. 2011-12-06-02, passed 12-6-2011)

MINIMUM CONDITIONS; REGULATIONS

111.060 MINIMUM DISTANCE OF WELL-HOLE FROM OCCUPIED STRUCTURE,

In each case of drilling or redrillling, the distance from any well-hole to any occupied structure shall be a minimum of 1,000 feet, unless the permittee obtains written consent from the owners and tenants of said occupied structure and furnishes said written consent to the Building Official prior to the issuance of said permit.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.061 MINIMUM DISTANCE OF STORAGE TANK IN CONJUNCTION w1TH WELL FROM OCCUPIED STRUCTURE.

In each case, the distance from any storage tank or tanks in conjunction with any well to any occupied structure shall be a minimum of 1 ,000 feet.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.062 IV(INIMUM DISTANCE OF WELL-HOLE AND TANKS FROM STREETS.

In each case, the distance from the center of a well-hole drilled under a permit issued under this chapter and from all storage tanks installed to the nearest traveled public or private street right-of-way shall be a minimum of 1,000 feet.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.063 VEHICULAR ACCESS ROUTE TO SITE.

A vehicular access route to the site may be established at the discretion of the Chief of Police after consideration of all of the circumstances including, but not limited to, the existing width, load-bearing capability, and composition of all streets proposed to be included in the access route; residential densities; potential interference with pedestrian and bicycle traffic; the presence of effective traffic control; and the general character of the areas through which the proposed access route would pass.

(Ord. 2011-12-06-02, passed 12-6-2011)

111 a 064 COMPLIANCE WITH PERMIT AS TO DRILLNG LOCATION AND OPERATIONS.

1. The oil or gas well drilled pursuant to any drilling permit shall be drilled only within the properties which the permittee set forth in its application as the properties through which such well was proposed to pass, unless the permittee secures approval of the Building Official to cause such well to pass through other properties,
2. No permittee shall drill, operate, or maintain any oil or gas well except in conformity with the terms and conditions of a permit issued under this chapter.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.065 REPRESENTATIVE OPERATIONS SUPERVISOR.

The applicant or permittee shall designate a competent representative who shall be responsible for the supervision of drilling operations and the carrying out of the conditions of any permit Such representative shall be available at all times during drilling operations and shall be the responsible contact agent of the applicant or the permittee whom the Building Official may require to carry out the provisions of the permit.

(Ord. 2011-12-06-02, passed 12-6-2011)

 111.066 WELL LOCATION; ROAD AND GROUND SURFACING.

1. The well location shall be clearly marked by staking or other suitable means and identified as the "drill site".
2. (1) Prior to commencement of any drilling operations, all private roads used for access to the drill site and the drill site itself shall be surfaced so as to prevent excessive dust and mud and in a manner adequate to support the weight of mobile firefighting equipment. 

(2) Surfacing may be by boards, rock, gravel, shell, or any other material that is oiled and maintained so as to prevent excessive dust and mud.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.067 FILING OF "POTENTIAL" OR "PLUG AND ABANDON" REPORT.

A copy of the "potential" or "plug and abandon" report of any well furnished to the State Railroad

Commission shall be concurrently filed by the permittee with the Building Official (Ord. 2011-12-06-02, passed 12-6-2011)

 111.068 STORAGE OF EQUIPIVIENT AND MATERIALS RESTRICTED.

1. No equipment shall be stored on the site which is not essential to the everyday operation of the oil well located thereon.
2. Lumber, pipes, and casing shall not be left on the site, except when drilling operations are being conducted on the site.
3. No equipment shall be stored except within the fenced areas of the site.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.069 CONfPLIANCE WITH REGULATIONS AS TO SLUSH PITS.

The slush pit or pits at each drilling site shall at all times be in compliance with all state and federal requirements.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.070 FENCING OF SITE.

1. Within 30 days after production has been established, the permittee shall enclose the well, together with its surface facilities and storage tanks by a substantial, smooth 11 gauge or heavier galvanized steel net wire fence a minimum of six feet in height and provided with barbed wired supporting arms and a minimum of three strands of barbed wire installed at the top of each post and properly built so as ordinarily to prevent the entry of unauthorized persons into the enclosure, with all gates thereto to be kept locked when the permittee or his or her employees are not within the enclosure.

This applies also to each existing producing drill site in the town together with its surface facilities and storage tanks.

1. Wells which, when in operation, have no externally moving parts, are exempt from the fencing requirements of this section; however, all storage tanks and surface facilities must be fenced as required herein.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.071 LANDSCAPNG OR SCREENING OF SITE.

1. (1) Within 90 days after production has been established on an urbanized drill site containing a well which, when in operation, has externally moving parts, the permittee shall have completed either adequate landscaping or screening composed of shrubbery a minimum of six feet in height, but in any event, tall and thick enough to shield the drilling site from public view or physical fencing and screening which effectively shields the drilling site from public views
   1. Such required landscaping or screening is subject to the approval of the enforcement administrator concerning its adequacy in meeting the requirements of this section. Said landscaping or screening must be maintained so as to shield the drill site from public view so long as production continues on the drill site.
   2. This applies also each existing producing urbanized drill site in the town containing a well which when in operation has externally moving parts.
2. Wells which when in operation have no externally moving parts are excepted from the fencing requirements of this section; however, all storage tanks and surface facilities must be fenced as required herein.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.072 NOISE, VIBRATION, ODOR, AND THE LIKE RESTRICTED.

1. All drilling and production equipment installed or operated upon any drill site shall be so constructed, operated, and maintained that no noise, vibration, odor, or other harmful or annoying substances or effects therefrom which can be eliminated or diminished by the use of modern and approved types of equipment, silencers, or greater care shall ever be permitted to result from operations on any drill site to the injury or annoyance of persons in the vicinity of such drill site. Proven technological and mechanical improvements in methods of drilling and production and in the type of equipment used therefor shall be adopted from time to time, as the same become available, if the use of such equipment, improvements, and methods will reduce noise, vibration, odors, or the harmful effects of annoying substances.
2. The engines used in connection with the drilling of any oil well or any production equipment shall be equipped with an exhaust muffler or mufflers, or an exhaust muffler box, sufficient to suppress noise and to prevent the escape of obnoxious gases, fumes, sparks, ignited carbon, or soot. The type and design of any muffler or muffler box shall be approved by the Building Official and by the Fire Chief or his or her authorized representative.
3. At an urbanized drilling site, the operation of oil field production equipment shall not increase the ambient noise level at any given time by more than three decibels in any octave band, when measured at a distance of 150 feet from the oil field production equipment in question. The ambient noise level, for the purpose of this section, shall be the average of sound level meter readings taken consecutively at any given time from four or more diametrically opposite positions within an area of not more than 500 feet nor less than 200 feet from the oil field production equipment in question; all such readings to be taken at a distance and in such a manner so as to obtain the surrounding noise level as distinguished from the noise level produced by the oil field production equipment; however, if the ambient noise level is less than 70 decibels, the production equipment shall not generate a noise level in excess of 70 decibels measured at a distance of 150 feet from such equipment.
4. At a non-urbanized drilling site, the operation of oil field production equipment shall not generate a noise level in excess of 80 decibels at a distance of 150 feet from said production equipment.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.073 NEATNESS, CLEANLINESS, ORDER; FIREFIGHTING EQUIPMENT.

1. All of the operations at the drill site shall be conducted in a careful and orderly manner, and the premises shall at all times be maintained in a neat, clean, and orderly manner.
2. All firefighting equipment, as required and approved by federal statutes, shall be installed and maintained on the drill site at all times during drilling operations. In addition, each drill site shall, during drilling operations, be equipped with two 150-pound dry chemical fire extinguishers equipped with wheels and also equipped with 50 feet of hose on each unit.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.074 WATCHI%dEN.

At all times during the drilling process until the well is abandoned and plugged or completed as a producer and enclosed with a fence as herein provided, the permittee shall keep a watchman on duty on the premises; provided; however, it shall not be necessary to keep a watchman on duty on the premises when other workmen of the permittee are on such premises. (Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.075 CASING QUALITY.

1. All casing, including surface protection and production strings, shall be either seamless steel or equivalent quality oil well casing. Each production string of casing must meet or exceed the minimum internal pressure yield strength established under American Petroleum Institute standards.
2. Each joint and length of each particular casing string shall have prior to setting unconditionally passed a complete cold water test and the Building Official shall be furnished a copy of said test results.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.076 MINIMUM DEPTH OF SURFACE CASING; CEIMENTING OF CASING.

No well shall be drilled within the town limits without properly setting surface casing to a minimum depth of 800 feet. No well shall be drilled within the town limits without cementing the surface casing by the pump and plug method with sufficient cement to completely fill all of the annular space behind such casing to the surface of the ground; and without cementing the production string by the pump and plug method with sufficient cement to completely fill all of the annular space behind the production string to at least 500 feet above the highest oil- and/or gas-bearing horizon. In the event a protection string of casing be required under the terms of this chapter, said protection string shall not be installed without cementing the protection string by the pump and plug method with sufficient cement to completely fill all the annular space behind the protection siring to at least 500 feet above the highest oil- and/or gasbearing horizon.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.077 MASTER VALVES, VALVE COCKS, AND BLOWOUT PREVENTERS.

1. No well shall be drilled within the town limits without properly equipping the surface casing when set with at least one master valve, and without properly equipping the protection casing when set with at least one master valve and one fluid-operated ram type blowout preventer, and without properly equipping the production casing during completion operations and work-over operations with at least one master valve and at least one fluid-operated ram type blowout preventer.
2. On each well drilled, a valve cock or Kelly cock shall be installed on each Kelly used. Each blowout preventer shall test a minimum of 3 , 000 pounds and its mechanical operation shall be tested at least once every 24-hour period. All control equipment shall be in good working condition and order at all times.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.078 DRILLNG FLUID.

No well shall be drilled within the town limits without using mud as the drilling fluid after the setting of surface casing as provided in 111.076. Prior to the time the well reaches a total depth of 5,000 feet, or the depth of the first known or encountered oil- or gas-bearing horizon, whichever is the lesser depth, the weight of the mud-laden drilling fluid shall be at all times maintained at a weight sufficient to contain the formation pressure. After the well reaches a total depth of 5 ,000 feet or the depth of the first known or encountered oil- or gas-bearing horizon, whichever is the lesser depth, the weight of the drilling fluid shall be maintained to provide a hydrostatic head necessary to contain the formation pressure. In reworking a well, the drilling fluid shall be at all times maintained at a weight that will provide a hydrostatic head necessary to contain the formation pressure. (Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.079 TESTNG RESTRICTIONS.

It shall be unlawful for any person in connection with the drilling or reworking operations of any well within the town limits to complete any drill stem test or tests except during daylight hours and then only if the well effluent during the test is produced through an adequate oil and gas separator to storage tanks, and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe. (Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.080 TUBING QUALITY.

All tubing used in any well within the town limits shall be seamless steel tubing meeting American

Petroleum Institute standards for minimum internal pressure yield strength. (Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.081 CASINGHEADS.

Each well drilled within the town limits shall be equipped with a casinghead with a working pressure sufficient to contain the formation pressure. Casingheads shall not be welded. The casinghead pressure shall be checked at two or more times each calendar year and, if pressure is found to exist, proper remedial measures shall be immediately taken to eliminate the source and the existence of the pressure.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.082 CHRISTMAS TREE AND WELLHEAD CONNECTION MAINTENANCE; SAFETY VALVE.

The Christmas tree and all wellhead connections on each well existing within the town limits and on each well drilled pursuant to a permit under this section shall be maintained so as to operate safely. If a Chrismas tree or a well connection is found to be leaking or otherwise defective, the Building

Official may immediately revoke the permit. In the event the surface shut in pressure of any well in the town limits exceeds 2,000 pounds per square inch, the flow wing of the Christmas tree shall be equipped with an automatic closing safely valve in addition to the regular control valves. (Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.083 COMPRESSOR STATION SHUT DOWN DEVICES AND OTHER PRECAUTIONARY MEASURES.

1. The compressor station on each well existing within the town limits and on each well drilled pursuant to a permit under this section shall be equipped with an automatic shut down device which shall be clearly marked and visible at all times.
2. The compressor station and all pipes and valves connected thereto must meet or exceed the minimum internal pressure yield strength established under American Petroleum Institute standards and shall have prior to installation unconditionally passed a complete cold water test.
3. All compressor stations shall be checked a minimum of once each three months and the result of said check shall be sent to the Building Official upon request.
4. Failure to comply with this section shall result in immediate cancellation of the drilling permit issued hereunder.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.084 TANK RESTRICTIONS AND REQUIRENÆENTS.

1. Except as provided in 111.061 , within 1 ,000 feet of any occupied structure a maximum of two 500-barrel tanks for crude oil storage may be constructed in connection with any one producing well within the town limitse There shall be no limitation on the size or number of storage tanks that may be constructed in the area more than 1,000 feet from any occupied structure.
2. Each tank shall be equipped with flame arrestors and shall be so constructed and maintained as to be vapor-tight. Each tank battery shall also be surrounded with an earthen fire wall which shall at all times be free of vegetation and which shall be at such distance from the tank as will under any circumstances hold and retain at least one and one-half times the maximum capacity of such tank. The area outside each tank but contained within the earthen fire wall shall be properly drained at all times.
3. A permittee may use, construct, and operate a steel conventional separator, and such other steel tanks and appurtenances as are necessary for treating oil, with each of such facilities to be so constructed and maintained as to be vapor-tight. Each oil gas separator shall be equipped with both a regulation pressure relief safety valve and a bursting head. 

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.085 PLUGGING ABANDONED WELLS.

When a well is abandoned, it shall be the obligation of the permittee and the operator of the well to plug said well in accordance with the requirements of the State Railroad Commission. (Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.086 DISPOSAL OF SALT WATER.

The permittee shall make adequate provision for the disposal of all salt water or other impurities, which he or she may bring to the surface. Disposal shall be made in a manner that will not contaminate the water supply, present or prospective, or injure surface vegetation. (Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

 111.087 RESTRICTION ON DELIVERY OF EQUImßNT AND SUPPLIES,

Whenever practicable on an urbanized drilling site, all delivery of equipment and supplies to the drill site shall be made only on Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m. This requirement shall not apply to drilling operations being conducted in a non-urbanized area.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.088 TRANSPORTATION OF OIL AND GAS PROHIBITED.

When production has been established in any new well, the construction of a pipeline shall be started as soon as practical and economically feasible and thereon diligently prosecuted until such pipeline is completed in order to eliminate the trucking of oil. All oil and gas shall be shipped and transported through pipelines after those pipelines have been completed, except in cases in which such a method of transportation is found by the Building Official to be unfeasible. In such cases, the shipping and transportation of oil by the truck may be permitted at the discretion of the Building Official after consideration of all the circumstances including, but not limited to, the proximity of the well to existing and available pipelines , the availability of acceptable access routes to the drill site, and the frequency and size of transportation vehicles required to serve the well. In the instance of an oil spill, the permittee may bring in a vacuum truck to clean said spill without the necessity of obtaining permission from the Building Official.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

111.089 PRODUCING OR NON-PRODUCING STATUS OF WELL.

If a well is placed in production, the Building Official in accordance with the requirements of this chapter shall inspect it periodically. A notification of status change from producing well to abandoned well shall become necessary for any well which has not produced, or which has not been used for subsurface injection into the earth of oil, gas, salt water, or oil field waste for a period of nine months, unless permission to hold said well for a longer period of time is obtained from the State Railroad Commission. The operator shall, upon request of the Building Official, furnish verification of production for the purposes of this section.

(Ordo 2011-12-06-02, passed 12-6-2011)

 111.090 WELL ABANDONMENT REQUIRENÆNTS; REMOVAL OF DERRICKS WHEN

PRODUCTION STARTED,

If a well is to be abandoned, the following requirements are applicable.

1. Within 90 days after the completion of drilling operations or abandonment of further drilling, the derrick and all drilling equipment, including temporary tanks, shall be removed from the drill site, Well abandonment shall be in accordance with the requirements of all applicable laws and ordinances o Upon such well abandonment, the permittee shall restore the property as nearly as possible to its original condition and shall remove all concrete foundations, oil-soaked soil, and debris. All holes or depressions shall be filled to the natural surface.
2. Drilling operations shall be prosecuted in a workmanlike manner until the well is completed or abandoned. Once a well is a producing well, it shall not be serviced with a permanent derrick.
3. The Building Official shall determine that the drill site and all facilities pertinent thereto have been restored to their original condition as nearly as practicable and that all requirements of this section have been satisfied.
4. After abandonment of a well by the operator, the drilling permit will be terminated if, to the satisfaction of the Building Official, all the conditions stated in this chapter have been fulfilled.

(Ord. 2011-12-06-02, passed 12-6-2011) Penalty, see 10.99

34 Rose Hill Acres Business Regulations

CHAPTER 112: PEDDLERS, ITINERANT VENDORS, SOLICITORS, AND LIKE

Section

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112.99 Penalty

 112.01 DEFNITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANVASSER. A person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of:

* + 1. Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause; or

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* + 1. Distributing a handbill or flyer advertising a noncommercial event or service.

PEDDLER A person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service. A PEDDLER does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good, or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a SOLICITOR.

ITINERANT VENDOR or HAWKER. A person who sets up and operates a temporary business on privately owned property, whether improved or unimproved, in the town, soliciting, selling, or taking orders for, or offering to sell or take orders for any goods or services. A TEMPORARY BUSINESS is one that continues for 45 days or less; and, exists whether solicitation is from a stand, vehicle, or freestanding.

SOLICITOR. A person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of:

* + 1. Attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political, or religious purpose, even if incidental to such purpose there is the sale of some good or service; or
    2. Distributing a handbill or flyer advertising a commercial event or service. (Ord. 2015-06-09-03, passed 6-9-2015)

112.02 EXCEPTION.

* 1. Generally. This chapter shall not apply to a federal, state, or local government employee or a public utility employee in the performance of his or her duty for his or her employer.
  2. Additional exception.
     1. Any organization recognized as a "non-profit organization" as described in 501(c)(3) of the Internal Revenue Code is exempt from payment of the permit fee.
     2. The sponsor of any organization recognized as a "non-profit organization" as described in  501(c)(3) of the Internal Revenue Code or a sponsor of any "town approved/authorized or sanctioned event" is only required to complete one application for all its individuals/agents engaging in solicitation activities. The sponsor shall provide the town a list of name(s), date(s) of birth, address or addresses, and driver's license number(s) (if applicable) of all individuals/agents that will be conducting solicitation activities.
     3. The sponsor of a "non-profit organization" or a "town approved/authorized or sanctioned event" may exempt from 112.04.
     4. Any individual(s) conducting solicitation activities for a non-profit organization or part of a "town approved/authorized or sanctioned event" are exempt from 112.04.
     5. Salespersons with an appointment calling upon or dealing with manufacturers, wholesalers, distributors, brokers, or retailers at their place of business or homes and in the usual course of business are exempt.
     6. Solicitation in public rights-of-way shall not apply to any public transportation system; taxi cabs; mail carriers; vehicles for hire such as commercial servicing or repair of any disabled motor vehicle; any commercial activity involving pick up, delivery, or unloading.
     7. The terms of this chapter shall not apply to residential yard or garage sales.
     8. The terms of this chapter shall not apply to a permanent established business.
     9. Solicitation activity on a property that is determined by the Town Manager to be an accessory use is not subject to the regulations of this chapter. (Ord. 2015-06-09-03, passed 6-9-2015)

 112.03 LICENSE REQUIRED FOR PEDDLERS, HAWKERS, AND SOLICITORS; AVAILABLE FOR CANVASSERS.

No person shall act as a peddler, hawker, or solicitor within the town without first obtaining a peddler license in accordance with this chapter. A canvasser is not required to have a peddler license but any canvasser wanting a peddler license for the purpose of reassuring town residents of the canvasser's good faith shall be issued one upon request. See the appendix, attached to this ordinance and adopted by reference as if set out in full herein, for peddler license issued regulations. (Ord. 2015-06-09-03, passed 6-9-2015)

112.04 FEE.

(A) Peddler license. The fee for the issuance of each peddler license shall be:

* + 1. For a peddler acting on behalf of a merchant, a fee of $ 70 per week;
    2. For a solicitor (including a commercial solicitor advertising an event, activity, good, or service for purchase at a location away from the residence), no fee;
    3. For a canvasser requesting a peddler license, no fee; and
    4. Anon-profit organizationorpersonconducting solicitation activity onbehalfofanon-profit organization is exempt from payment of a permit fee.

(B) Additional schedule offees. Before any permit shall be issued under the provisions of this chapter, the applicant therefore shall pay a fee, based upon the time period he or she desires to engage in business in the town, as follows:

|  |  |
| --- | --- |
| Per week | $70 |
| Per month | $225 |
| Per 3 months | $600 |
| Per 6 months | $1,200 |

(Ordo 2015-06-09-03, passed 6-9-2015)

112.05 APPLICATION FOR PEDDLER LICENSE.

* 1. Any person or organization (formal or informal) may apply for one or more peddler licenses by completing an application form at the office of the issuing officer, during regular office hours.
  2. The peddler license shall be issued promptly after application but in all cases within 24 business hours of completion of an application, unless it is determined within that time that:
     1. The applicant has been convicted of a felony or a misdemeanor involving moral turpitude within the past seven years;
     2. With respect to a particular license, the individual for whom a card is requested has been convicted of any felony or a misdemeanor involving moral turpitude within the past seven years; or
     3. Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

(Ordo 2015-06-09-03, passed 6-9-2015)

112.06 CONTENTS OF APPLICATION.

The applicant (person or organization) shall provide the following information:

* 1. Name of applicant;
  2. Number of peddler licenses required;
  3. The name, physical description and photograph of each person for which a card is requested. In lieu of this information, a driver's license, state identification card, passport, or other governmentissued identification card (issued by a government within the United States) containing this information may be provided, and a photocopy taken. If a photograph is not supplied, the town will take an instant photograph of each person for which a card is requested at the application site. The actual cost of the instant photograph will be paid by the applicant;
  4. The permanent and (if any) local address of the applicant;
  5. The permanent and (if any) local address of each person for whom a license is requested;
  6. A brief description of the proposed activity related to this peddler license. (Copies of literature to be distributed may be substituted for this description at the option of the applicant);
  7. Date and place of birth for each person for whom a card is requested;
  8. A list of all infraction, offense, misdemeanor, and felony convictions of each person for whom a license is requested for the seven years immediately prior to the application;
  9. The motor vehicle make, model, year, color, and state license plate number of any vehicle which will be used by each person for whom a card is requested;
  10. If a license is requested for a peddler:
      1. The name and permanent address of the business offering the event, activity, goods, or service (i.e., the peddler's principal);
      2. A copy of the principal's sales tax license as issued by the state, provided that no copy of a license shall be required of any business which appears on the town's annual report of sales tax payees as provided by the Texas Comptroller's office; and
      3. The location where books and records are kept of sales which occur within the town and which are available for municipal inspection to determine that all municipal sales taxes have been paid, if applicable.

(K) If a license is requested for a solicitor:

* + 1. The name and permanent address ofthe organization, person, or group for whom donations

(or proceeds) are accepted; and

* + 1. The web address for this organization, person, or group (or other address) where residents having subsequent questions can go for more information.

(L) Any other information the applicant wishes to provide, perhaps including copies of literature to be distributed, references to other municipalities where similar activities have occurred, and the like. (Ord. 2015-06-09-03, passed 6-9-2015)

112.07 INVESTIGATION.

During the time following the application for one or more peddler licenses and its issuance, the town shall investigate as to the truth and accuracy of the information contained in the application. If the town has not completed this investigation within the 24 business hours provided in 112.05 , the identification card will nonetheless be issued, subject, however, to administrative revocation upon completion of the investigation. (If a canvasser requests a peddler license, the investigation will proceed as described above, but if the town refuses to issue the peddler license (or revokes it after issuance), the canvasser will be advised that the failure to procure a peddler license does not prevent him or her from canvassing the residents of the town.)

(Ord. 2015-06-09-03, passed 6-9-2015)

112.08 DENIAL OR REVOCATION OF LICENSE.

(A) Grounds.

* + 1. Generally. Any license issued hereunder may be revoked if the license holder is convicted of a violation of any provisions of this chapter or has knowingly made a false material statement in the application or otherwise becomes disqualified for the issuance of a license under the terms of this chapter.
    2. Clarifications of denial or revocation of license.

(a) The Mayor's office shall approve the issuance of a permit to an applicant within 30 days after receipt of an application unless he or she finds one or more of the following to be true:

* + - * 1. The application for a solicitor's permit is incomplete as to the requirements noted herein;
        2. False and/or misleading statements are found to be included in the application for a solicitor's permit;
        3. An applicant is overdue in payment to the town of fees, taxes, fines, or penalties assessed against or imposed upon the applicant;
        4. The applicant is a person against whom a judgment based upon fraud, deceit, or misrepresentation has been entered within five years;
        5. Within five years preceding the date of the application, the applicant has pleaded guilty or nolo contendere to, or has been convicted of, a felony, misdemeanor, or ordinance violation involving fraud, deceit, misrepresentation, a sex offense, trafficking a controlled substance, or any act of violence against persons or property; or
        6. The type ofsolicitation activity requires a bond, andthe applicant has not complied with the bond requirements as indicated in 112.16.
      1. A denial and the reasons for denial shall be noted on the application, and the applicant shall be notified of the denial by certified mail and sent to the address shown on the application.
      2. Suspension of solicitor's permit: a permit issued pursuant to this chapter may be revoked or suspended by the Mayor or designee's office for any of the following reasons:
         1. Fraud or misrepresentation in the application;
         2. Fraud or misrepresentation in the course of conducting solicitation activities;
         3. Conducting solicitation activities inconsistent with the conditions of the permit;
         4. Conducting solicitation activities in such as manner as to create or constitute a danger to the public health, safety, and welfare;
         5. A judgment against the registrant involving a matter described in; or
         6. Conviction of a crime.
      3. Upon revocation, the Mayor or designee shall deliver written notice to the permit holder stating the action and the reasons supporting such action. A written notice shall be delivered to the permit holder's place of business (as indicated on the application) or mailed to the permit holder's last known address. The Mayor or his or her designee shall have the authority to seize any and all permits and photo identification tags possessed by persons conducting business as a solicitor while official notification process is underway. At such time, any and all solicitation activities conducted under the authority of that permit shall cease. Solicitor's permits issued as a part of a short-term special event shall only be valid during the duration of that event.
      4. All persons conducting solicitation activities must have proof of possession of any license or permit required under federal, state, or county regulations and shall submit copies of such license(s) or permit(s) at the time of application (i.e. , vehicle inspection report/food handlers permit).
      5. All solicitation on town-owned land must be approved by the Town Manager. The solicitor may be required to enter into a contract agreement with the town prior to solicitation activities commencing and is subject to applicable town-use policies.
      6. All solicitation activity exclusively on private or town owned property (excluding door to door sales) is classified as either a seasonal sales or a temporary business. It shall be unlawful to conduct permanent established business on private or town owned property unless specifically authorized by the zoning regulations. Any temporary business activity must be consistent with the permitted use allowed in the zoning district and is subject to the restrictions applicable to that zoning district.
      7. Written permission to conduct such solicitation activity on private or town owned property shall be granted by the owner of the property.
      8. No person shall conduct solicitation activities by foot from apublic street right-of-way.
      9. It shall be unlawful to engage in an act of solicitation in an aggressive or intimidating manner, including any of the following actions:
         1. Touching the solicited person without the solicited person's consent;
         2. Blocking the path of a person being solicited;

39 Following behind, ahead, or alongside aperson who walks away from the solicitor after being solicited; and

4. Shouting, making any outcry, blowing a horn or whistle, or using any sound device, including any loud speaker or sound amplifying system that exceeds the regulations of the towns ' noise ordinance, upon any of the streets, public places, or upon private property for the purpose of attracting attention to the location of any goods, wares, or merchandise.

* + - 1. Except as otherwise stated herein, all persons grantedpermissionto conduct solicitation activities in the town shall prominently display the photo identification tag issued to them at all times.
      2. Every solicitor who is permitted to solicit edible merchandise shall keep all articles for sale to the public in a clean and sanitary condition, as well as the wagons , vehicles, or other conveyances used in the transportation of such merchandise and shall meet all applicable federal, state, and local regulations.
      3. It shall be unlawful for any solicitor to sell or offer to sell any unsound or unwholesome merchandise or give a false weight of measure to such offered for sale.
      4. Allminors must be sponsored or employed by aperson, company, or organization. The person, company, or organization that is sponsoring the minor(s) must be responsible for controlling the conduct of all sponsored individuals.
      5. Applicants claiming a nonprofit status may be required to provide documentation of such status to the Mayor or designee.
      6. Any person going from house-to-house, door-to-door, business to business, or other type of place-to-place when such activity is for the purpose of exercising that person's state or federal Constitutional rights (i.e., freedom of speech, press, religion, and the like) is exempt from the regulations of this chapter, except that this exemption is lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity or results in a disturbance or nuisance or any other act that is otherwise prohibited by law.
  1. Notice. If the issuing officer denies (or upon completion of an investigation revokes) the peddler license to one or more persons he or she shall immediately convey the decision to the applicant orally and shall within 16 working hours after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant.
  2. Appeal; hearingo The licensee shall have ten days from the date of revocation or denial in which to file notice of his or her appeal to the Town Board from the order denying or revoking the license. The applicant shall have at his or her option an appeal of the denial of his or her application before the Town Board, at its next regular meeting. After holding the hearing on the revocation or denial, the Town Board shall by majority vote either sustain the action or issue an order reinstating the license.
  3. Filing an appeal In the event of the filing of an appeal from a revocation issued under the provisions of this chapter, then, until such appeal has been determined by the Town Board such revocation order shall be stayed.

(Ord. 2015-06-09-039 passed 6-9-2015) Penalty, see 112.99

 112.09 HEARING ON APPEAL.

If the applicant requests a hearing under 112.08, the hearing shall be held in accordance with the Administrative Procedure Act of the state, and review from the decision (on the record of the hearing) shall be had to the county court in which the town is located. The hearing shall also be subject to the Texas Open Meetings and Records law.

(Ord. 2015-06-09-03, passed 6-9-2015)

 112.10 DISPLAY OF PEDDLER LICENSE.

Each peddler license shall be (when the individual for whom it was issued is acting as a peddler or solicitor) worn on the outer clothing of the individual or otherwise displayed, as so to be reasonably visible to any person who might be approached by said person. (Ord. 2015-06-09-03, passed 6-9-2015)

112.11 VALIDITY OF PEDDLER LICENSE.

A peddler license shall be valid within the meaning of this chapter for a period of six months from its date of issuance or the term requested, whichever is less.

(Ord. 2015-06-09-03, passed 6-9-2015)

112.12 REVOCATION OF CARD BY  COURT JUDGE.

A Municipal Court Judge, in addition to imposing a fine, may institute proceedings to suspend or revoke the license of a person if the person is required by law to obtain a peddler license from the town and the Judge finds the person guilty of violating a town ordinance relating to peddlers. (Ord. 2015-06-09-03, passed 6-9-2015)

112.13 "NO VISIT" LIST.

The issuing officer shall maintain a list of persons within the town who restrict visits to their residential property (including their leasehold, in the case of a tenant) by peddlers, solicitors, and canvassers. The issuing officer may provide a form to assist residents, and this form may allow the resident to select certain types of visits that the resident finds acceptable while refusing permission to others. This "no visit" list shall be a public document, and may be reproduced on the town's web site and available for public inspection and copying. A copy of the "no visit" list shall be provided to each applicant for and each recipient of a peddler license. If a canvasser chooses not to apply for a peddler card, it will be the responsibility of that canvasser to obtain in some other way a copy of the current "no visit" list.

(Ord. 2015-06-09-03, passed 6-9-2015)

112.14 DISTRIBUTION OF HANDBILLS AND COMMERCIAL FLYERS.

In addition to the other regulations contained herein, a solicitor or canvasser leaving handbills or commercial flyers about the community shall observe the following regulations.

1. No handbill or flyer shall be left at, or attached to any sign, utility pole, transit shelter, or other structure within the public right-of-way. The police are authorized to remove any handbill or flyer found within the right-of-way.
2. No handbill or flyer shall be left at, or attached to any privately owned property in a manner that causes damage to such privately owned property.
3. No handbill or flyer shall be left at, or attached to any of the property:
   1. Listed on the town "no visit" list; or
   2. Having a "no solicitor" sign.
4. Any person observed distributing handbills or flyers shall be required to identify himself or herself to the police (either by producing a peddler license or other form of identification), This is for the purpose of knowing the likely identity of the perpetrator if the town receives a complaint of damage caused to private property during the distribution of handbills or flyers.

(Ord. 2015-06-09-03, passed 6-9-2015)

 112.15 GENERAL PROmBITIONS.

No peddler, hawker, solicitor, or canvasser shall:

1. Enter upon any private property where the property has clearly posted in the front yard a sign visible from the right-of-way (public or private) indicating a prohibition against peddling, soliciting, and/or canvassing. Such sign need not exceed one square foot in size and may contain words such as "no soliciting" or "no solicitors" in letters of at least two inches in height. (The phrase "no soliciting" or "no solicitors" shall also prohibit peddlers, hawkers, and canvassers);
2. Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting" or "no solicitors" and which is clearly visible to the peddler, solicitor, or canvasser;
3. Enter upon any private property where the current occupant has posted the property on the town's "no visit" list (except where the posting form indicates the occupant has given permission for this type of visit), regardless of whether a front yard sign is posted;
4. (1) Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property;
   * 1. Remove any yard sign, door, or entrance sign that gives notice to such person that the resident or occupant does not invite visitors; or
     2. Enter upon the property of another except between the hours of 8:00 a.m. and 9:00 p.m. except that the above prohibitions shall not apply when the peddler, hawker, solicitor, or canvassers has an express invitation from the resident or occupant of a dwelling allowing him or her to enter upon any posted property.
5. For a commercial solicitor, peddler, or hawker to solicit for a purpose other than that set out in the application upon which the license was issued. (Ord. 2015-06-09-03, passed 6-9-2015)

112.16 BOND.

1. Solicitors who require cash deposits or advance payments for future delivery or who require an agreement to finance the sale of goods and services for future delivery, or for services to be performed in the future, shall furnish to the town a bond in the amount of $10,000 in conjunction with the application. The bond shall be signed by the applicant and a surety company authorized to do business in the state.
2. Such bond will be refunded 30 days after the last day that solicitation activity will take place as indicated on the application to ensure the following: 
   * 1. Final delivery of goods and services in accordance with the terms of any order obtained;
     2. Purchasers are compensated for any loss, damages, or injury that resulted from materials or workmanship that may exist in the goods sold or the services rendered; and
     3. Violations resulting in a fine to this chapter or other ordinances have not occurred.

(Ord. 2015-06-09-03, passed 6-9-2015)

112.17 SOLICITATION IN PUBLIC RIGHT-OF-WAY.

1. A person may solicit for a charitable or political purpose in or upon the public right-of-way, except those areas prohibited in this chapter.
2. A person may conduct commercial solicitation in or upon the public right-of- way, except those areas prohibited in this chapter, if the solicitor has obtained a license or who is a member of an organization that has obtained a license.
3. Solicitation for any purpose in the public right-of-way shall be conducted only during the hours of daylight, specifically one-half hour after sunrise and one-half hour before sunset.
4. It shall be unlawful for a person younger than 18 years of age to solicit in the public right-ofway.
5. It shall be unlawful for a solicitor at any time to enter or remain in the traveled portion of the roadway unless the solicitor has been granted authorization pursuant to Tex. Transportation Code, Ch. 552, 552.0071. The restriction on solicitation in the traveled portion of the roadway does not apply to public residential streets.
6. It shall be unlawful for a solicitor at any time to enter or remain in the traveled portion of the roadway of residential streets so that their presence impedes the flow of traffic.
7. It shall be unlawful for a person to solicit in the public right-of-way that is within 1,000 feet of any public or private elementary or secondary school between the hours of 7:30 a.m. and 4:30 p.m. on days when such school is in session. The measurement of the distance shall be made from the nearest property line of the public or private elementary or secondary school.

(Ord. 2015-06-09-03, passed 6-9-2015) Penalty, see 112.99

 112.18 SOLICITATION IN SELECTED PUBLIC RIGHTS-OF-WAY PROHIBITED.

1. It shall be unlawful for any person to solicit, peddle, or to distribute handbills at any time in the public rights-of-way, with or without a license, within 100 to 1,000 feet of the following intersections:
2. A solicitor who has received authorization pursuant to Tex. Transportation Code, Ch. 552,

 552.0071, is permitted to solicit in the following intersections notwithstanding the restrictions set forth in division (A) above:

(Ord. 2015-06-09-03, passed 6-9-2015) Penalty, see 112.99

 112.99 PENALTY.

Any person violating any part of this chapter or failing to observe any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding $500. Every day the violation continues shall be deemed as a separate offense. (Ord. 2015-06-09-03, passed 6-9-2015)

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CHAPTER 113: RESIDENTIAL RENTAL AND LEASE PROPERTY REGISTRATION AND INSPECTION

Section

113.01 Definitions

113.02 Residential rental property registration required

113.03 Residential rental property inspection

113.04 Enforcement

113.99 Penalty

 113.01 DEFNITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATOR. The Mayor or their designee,

EXTRATERRITORIAL JURISDICTION (ETJ). Municipal territory outside the town limits that a town may exercise authority over with emphasis on health and safety regulations.

LOCAL CONTACT. An individual designated by an absent owner/landlord (one that lives outside the town), who can respond promptly (less than two hours) to an emergency at a rental property, subject to this chapter, on the owner/landlord' s behalf, and authorized to make decisions and act to remedy the emergency.

OWNER/LÅNDLORD. Any person or corporation/company that owns, leases, or subleases residential rental property.

RI ZONING DISTRICT. Typically refers to a piece of real estate that is located in a neighborhood of single-family residences o

R2 ZONING DISTRICT. Typically refers to a piece of real estate that is located in a neighborhood of single-family residences or duplex style construction, with no more than two families per lot.

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RENTAL PROPERTY. Any residential single-family property in the RI District, any single-family or two-family duplex in the R2 District permitted only inside the town limits per lot, or residents outside the town limits in its extraterritorial jurisdiction (ETJ) in the RI District or R2 District, and multi-family dwelling units, including manufactured homes, in the ETJ only, that are not owner occupied, and are rented or leased, whether rent is or is not charged, and whether the lease is or is not memorialized in writing. RENTAL PROPERTY includes, but is not limited to: properties rented or leased to students, families, or any other persons; properties in which a family member of the owner resides in the home, but the owner does not (regardless of whether additional persons also reside in the home); properties used as vacation rentals and hosted short-term rentals; properties owned by a company or corporation to house employees, whether rent is paid or not; and properties where a property caretaker lives in the home but the owner does not.

ROSE HILL ACRES. A municipality defined as a town by charter, may be referred to as a city.

(Ord. 2018071602, passed - -2018)

 113,02 RESIDENTIAL RENTAL PROPERTY REGISTRATION REQUIRED.

1. The owner/landlord or real estate manager of rental property is required to register rental property with the town on a form provided by the Administrator by November 1 of each year, or within 15 days of the property becoming rental property, if not previously registered with the town, and within 30 days if a rental property changes ownership. For purposes of this section, only one registration is required per property location, whether the property location consists of a two-family unit (duplex) or ETJ multi-family unit (triplex, quadplex, apartment building, and the like). The information required to register a rental property is as follows:
   * 1. Physical address of the rental property;
     2. Full name of owner(s)/landlord(s);
     3. Name of the rental property, if not identified by the physical address (for example, the Wilshire Apartments, Newport Condos, and the like);
     4. If the owner/landlord is a corporation or association, the name and address of the registered agent on file with the Texas Secretary of State;
     5. Full contact information of the owner/landlord (home phone, cell phone, business phone, fax number, email address, and mailing and physical address);
     6. Type of rental property (single-family RI, or two-family duplex residence R2 only, multi-family, and the like);

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* + 1. The name and complete contact information for the local contact, if different than the owner/landlord, in the case of an absentee owner. The local contact cannot be persons who are listed, or additional persons residing, at the residence on the lease;
    2. If a two-family structure (residence inside the town limits) or multi-family property (in the ETJ), the number of individual rental units and buildings at the property (one in the RI and R2 inside town limits; one or more in the ETJ);
    3. Telephone number that will be answered 24 hours a day (emergency phone number) by a responsible party (owner/landlord, local contact, and the like) as is required by Tex. Property Code,  92.020, if applicable;
    4. Tenant names, the contact information for all persons listed on the current lease(s), and all current lease(s) shall be presented to the Administrator for review upon request; and
    5. Any other information deemed necessary shall likewise be provided, as determined by the Administrator.

1. An owner/landlord of rental property shall pay a fee of $50 per registration at the time of any required renewal registration or new tenant.
2. An owner/landlord of rental property may not permit or allow another person to occupy or lease rental property without a registration required by this section.

(Ord. 2018071602, passed - -2018)

113.03 RESIDENTIAL RENTAL PROPERTY INSPECTION,

(A) The Administrator may order the inspection of the interior and/or exterior of a rental property if any of the following circumstances exist:

1. The town receives a written or oral complaint from a tenant, neighbor, Code Officer, public works employee, Police Officer, or other interested party concerning a rental property indicating a current violation of this code, any of the international building codes, state law, federal law, or where the premises appear to be unsafe, dangerous, or hazardous to the public health or safety;
2. Upon the first-time registration of a rental property with the town required by this chapter;
3. The failure of an owner to register rental property as required by this chapter; or
4. At any time the rental property is vacant or without a tenant.

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1. When an inspection is ordered, a preliminary inspection shall be conducted by a City Code Officer or Building Inspector working at the direction of the town. This preliminary inspection is to identify issues of substantial concern that affect the habitability of the property involved, not merely aesthetic or surface level concerns. Dangerous electrical problems, water leaks, structural damage/insufficiencies, plumbing/sewer blockages , gas leaks, and other major problems will be the type of issues the town will be assessing.
2. The preliminary inspection shall be conducted within 10 days of the Administrator's order.
3. A written report of the preliminary inspection shall be served on the Administrator, the occupants of the home, and the owner/landlord or the local contact within two days of the preliminary inspection. Actual notice must be achieved on the owner/landlord and/or the local contact. This report shall contain a comprehensive list of any issues that require repair/remedy/correction with citation to the applicable law, regulation, and/or code offended. If no actionable issues are present, a written report detailing the preliminary inspection findings and passing performance shall be served on all parties to close out the inspection.
4. If actionable dangerous issues exist in the preliminary inspection report, the owner/landlord has five business days to remedy the issues and provide the Administrator proof of such compliance. The cost of any remedy is the responsibility of the owner/landlord and not the tenant(s) or the town.
5. Proof of compliance may be achieved by photos, receipts of materials/work, affidavits of compliance, and/or a second inspection by the City Code Officer or Building Inspector working at the direction of the town.
6. Failure to remedy a dangerous issue identified in the preliminary inspection within five business days, and/or the failure to provide proof of a remedy to all reported or discovered dangerous issues identified in the preliminary report, is a violation of this chapter and may result in the issuance of a criminal citation for failure to comply. Additionally, a noncompliant owner/landlord will also face a citation for each and every specific code, regulatory, and/or state law violation present at the time. The preliminary inspection report shall serve as a warning to the owner/landowner.
7. An owner/landlord of rental property that wishes to contest the findings of a preliminary inspection report, may, at their own expense, seek an independent inspection of the rental property. A written report of this independent inspection should be filed with the Administrator before the expiration of the five day period for compliance. Such inspection must be conducted by a licensed building inspector registered and licensed through the Texas Real Estate Commission. If this written independent inspection report conflicts in a substantial way with the preliminary inspection report, no citations may be issued for an offense under this chapter until the matter is heard before the Town Board. The owner/landlord shall be notified of the date and time of the meeting and be allowed to present their position to the full Town Board. The Administrator shall be responsible for determining whether the independent inspection report and preliminary inspection report are substantially in conflict and invoke

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a hearing before the Town Board. The decision before the Town Board on such an issue is whether to authorize the issuance of citations, to designate a period for compliance, and/or to close out an ordered inspection file.

* 1. The owner/landlord of the rental property shall permit the Town Code Officer, Administrator, and/or Building Inspector working at the direction of the town, to enter the rental property (exterior and interior) when necessary to review compliance with this chapter for the purposes of performing an inspection and/or to follow-up on a previous inspection. If the property to be inspected is occupied by a tenant or tenants, consent must be achieved of at least one occupant of legal age and authority to provide consent. If no consent of the occupants can be achieved, the town shall be responsible for seeking and obtaining a valid administrative search warrant issued by a court of competent jurisdiction to allow the designated Building Inspector, Town Code Officer, and/or Administrator access to perform the inspection. The time period for inspection completion shall toll during any days where a warrant is being sought to allow entry and shall not be held against the owner/landlord for purposes of this chapter.
  2. Any and all costs incurred by the town for third party inspection services related to compliance with this chapter shall be billed and collected from the owner/landlord. Failure to reimburse the town may lead to a civil collection action against the owner/landlord, including attorney's fees and interest. (Ord. 2018071602, passed - -2018)

113.04 ENFORCEIVÆNT,

The Administrator shall have the authority to direct a citation be issued for a violation of the provisions of this chapter. The Administrator shall also use due diligence in ascertaining the true owner/landowner or responsible party of the rental property subject to prosecution. The Administrator shall use all available public records (CAD , water, voting, and the like) to identify such persons/entities, and, in no case shall the Administrator direct a citation be issued to more than one owner for the same occurrence of offense. The Administrator shall instead choose one of the available identified owners, in their discretion, for purposes of issuance of a citation. (Ord. 2018071602, passed - -2018)

113.99 PENALTY.

* 1. A person who violates this chapter is guilty of a Class C misdemeanor offense, and, if found guilty, shall be punishable by a fine of not more than $500 for each violation. Further, as provided by this code, each day of offense shall constitute a separate violation.
  2. Any violation of Health and Safety Codes in respect to the terms of this chapter of said code is further declared to be a misdemeanor, and any person found to be guilty thereof shall be punishable by a fine not to exceed $2,000. Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly by a fine not to exceed $2,000 for each day of each occurrence.

(Ord. 2018071602, passed - -2018)

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