

ORDINANCE NO. 17

AN ORDINANCE REGULATING THE USE OF EXPLOSIVES AND OTHER GEOPHYSICAL METHODS OF MINERAL EXPLORATION AND TESTING WITHIN THE CITY OF BEVIL OAKS, TEXAS; REQUIRING PERMITS THEREFOR; REGULATING TESTING LOCATION, QUANTITY OR EXPLOSIVES AND TIME AND PLACE OF TESTING; REQUIRING MONITORING DEVICES; PROVIDING A SEPARATE PENALTY FOR EACH VIOLATION

BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF BEVIL OAKS, TEXAS:

Section 1. PURPOSE: The fact that there are at the present time no adequate provisions or city ordinances with reference to the conducting of seismic surveys within the city limits of the City of Bevil Oaks, the fact that seismic surveys within the city limits are directly related to the lives, property, health, safety and convenience of the people of this city, and the fact that seismic surveys make regulation thereof necessary and desirable in order to protect lives, property and general welfare of the people of the City of Bevil Oaks, constitute the reasons, need and purpose for which this Ordinance is adopted.

Section 2. PERMIT: It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any other person or firm, to conduct seismic surveys of any nature within the city limits of the City of Bevil Oaks, or to work upon or assist in any way in the prosecution or operation of any such survey, without a permit for conducting such survey having first been issued by authority of the Board of Aldermen of the City of Bevil Oaks in accordance with the terms of this Ordinance.

Section 3. APPLICATION AND FILING FEE: Every application for a permit to conduct a seismic survey shall be in writing, signed by the applicant or by some person duly authorized to sign the same on his or its behalf, and it shall be filed with the City Secretary and be accompanied with a filing fee of One Hundred Dollars (\$100.00) as a fee to the City. No application shall request a permit to conduct but one seismic survey, and shall contain the following information:

- (a) The date of said application.
- (b) The name of the applicant.
- (c) The address of the applicant.
- (d) A map showing the location of the proposed seismic survey including cable routes and points of impulse creation (explosive or vibratory sources).
- (e) Have attached a Certificate of Insurance and Bond in the amounts specified by this Ordinance.
- (f) Type of impulse source (explosive or vibratory) and amount of impulse or charge.
- (g) Name, address and telephone number of person to whom citizen complaints and claims may be referred.

Section 4. TERMS AND CONDITIONS: A permit may be granted to an applicant (herein referred to as "Grantee") to conduct a seismic survey within the city limits of the City of Bevil Oaks, subject to the following terms and conditions:

- (1) Such operations are permitted only at the locations and in the manner indicated in the letters and drawing including in the application.
- (2) Permits are limited to a period of ninety (90) days from the effective date of the permit approval by the Board of Aldermen.

Board of Aldermen.

(5) Grantee shall secure all necessary agreements, licenses, permits, easements or leases for the lawful use of any private property.

(6) Grantee shall notify, ten (10) days prior to beginning operations, all pipeline companies with facilities to be crossed by geophone cables.

(7) Grantee shall conform to all regulations and regulations of the Board of Aldermen concerning the use of any City property.

(8) Geophone cables may be laid across City property as approved by the Board of Aldermen. Approval must be obtained prior to laying of said cable. No road surface may be cut to lay geophone cable. Such cable may be laid across road surfaces with protection devices; however, all roads must be left unobstructed for public traffic and such devices shall not create a nuisance or a hazard to public traffic. Grantee shall use due care in performing all work and shall provide adequate flagmen and signs and markers necessary to prevent all damage.

(9) Grantee shall pay the City its expense of providing a representative to inspect work done by Grantee hereunder.

(10) All equipment and materials used in conducted the survey shall be removed by Grantee or its contractor.

(11) Grantee shall conduct such survey upon said area only during daylight hours. Prior notice shall be given to the City Secretary at least one (1) day before each day of operation hereunder.

(12) Grantee shall furnish to the City Secretary a certificate of standard comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the Grantee and the City in an insurance company authorized to do business within the State, such policy or policies in the aggregate shall provide for the following minimum coverages:

(a) Bodily injuries - \$300,000.00 per claim;
\$1,000,000.00 per accident

(b) Property damage - \$200,000.00

Such certificate shall contain provision that at least fifteen (15) days prior written notice must be given to the City of any cancellation, alteration, or modification of such insurance.

(13) Grantee further agrees, on acceptance hereof, to indemnify and hold harmless the City of Bevil Oaks from and against all liability and damages said City may suffer as a result of claims, demands, costs or judgments including all necessary expenses, attorney's fees and court costs arising out of or resulting from such seismic operations.


(14) Grantee shall provide a bond to the City in the sum of One Hundred Thousand Dollars (\$100,000.00) conditioned that permittee will comply with the terms of this Ordinance.

(15) Such other conditions as the Board of Aldermen may require.


Section 5. USE OF MONITORING DEVICES: The Grantee shall provide independent certified calibrated instruments to read the intensity of the shock waves or other effects of the use of explosives or other testing devices. Such calibrated instruments shall be located at a point one thousand feet (1,000') from the testing point. Results from such calibrated instruments shall be filed with the City Secretary.

Section 6. PENALTY: Any person, firm or corporation, who shall violate any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof in a court of competent jurisdiction, shall be fined in any sum not exceeding Two Hundred Dollars (\$200.00), and each offense and each day such violation continues shall constitute a separate offense.

PASSED AND APPROVED this 15 day of MARCH, 1988.


JAMES SHULTS, MAYOR
CITY OF BEVIL OAKS, TEXAS

ATTEST:


SHERRY ADAMS, CITY SECRETARY
CITY OF BEVIL OAKS, TEXAS

A SEISMIC PERMIT ISSUED PURSUANT TO ORDINANCE
NO. 80 OF THE CODE OF ORDINANCES OF THE
CITY OF BEVIL OAKS, TEXAS

BOONE GEOPHYSICAL, INC., One Financial Plaza, Suite 250A
Huntsville, Texas 77340 is hereby granted a Permit to do a
seismic survey in accordance with the terms of Ordinance 80 of
the Code of Ordinances of the City of Bevil Oaks and in
accordance with the terms of this Permit.

The terms and conditions of this Permit are as follows:

(1) Such operations are permitted only at the locations and
in the manner indicated in the letters and drawing included in
the application, copies of which are marked Exhibit "A" and
attached hereto and incorporated herein for all purposes.

(2) Permits are limited to a period of ninety (90) days
from the effective date of the permit approval by the Board of
Aldermen.

(3) The minimum distance from any building or water well
for the use of explosive type energy source shall be one thousand
feet (1,000').

(4) The minimum distance from any pipeline for the use of
any explosive type energy source shall be five hundred feet
(500') unless otherwise authorized at specific locations by the
Board of Aldermen.

(5) Grantee shall secure all necessary agreements,
licenses, permits, easements or leases for the lawful use of any
private property.

(6) Grantee shall notify, ten (10) days prior to beginning operations, all pipeline companies with facilities to be crossed by geophone cables.

(7) Grantee shall comply with all instructions and regulations of the City Council concerning the use of any City property.

(8) Geophone cables may be laid across City property as approved by the Board of Aldermen. Approval must be obtained prior to laying of said cable. No road surface may be cut to lay geophone cable. Such cable may be laid across road surfaces with protection devices; however, all roads must be left unobstructed for public traffic and such devices shall not create a nuisance or a hazard to public traffic. Grantee shall use due care in performing all work and shall provide adequate flagmen and signs and markers necessary to prevent all damage.

(9) Grantee shall pay the City its expense of providing a representative to inspect work done by Grantee hereunder.

(10) All equipment and materials used in conducting the survey shall be removed by Grantee or its contractor.

(11) Grantee shall conduct such survey upon said area only during daylight hours. Prior notice shall be given to the City Secretary at least one (1) day before each day of operation hereunder. Actual notice must be given to each occupant who resides within 2,000 feet of any shot.

(12) Grantee shall furnish to the City Secretary a certificate of standard comprehensive public liability insurance,

including contractual liability covering bodily injuries and property damage, naming the permittee and the City in an insurance company authorized to do business within the State, such policy or policies in the aggregate shall provide for the following minimum coverages;

(1) Bodily injuries, \$300,000.00 per claim;
\$1,000,000.00 per accident

(2) Property damage, \$200,000.00.

Such certificate shall contain provision that at least fifteen (15) days prior written notice must be given to the City of any cancellation, alteration, or modification of such insurance.

(13) For and in consideration of the issuing of this Permit, and for additional consideration, BOONE GEOPHYSICAL, INC., by and through its duly authorized officer upon acceptance hereof and upon execution of this Permit by and through said duly authorized officer, does hereby agree to indemnify and hold harmless the City of Bevil Oaks from and against all liability and damages and claims whatsoever which said City may suffer as a result of any claims, demands, costs, or judgments including all necessary expenses, attorney's fees and court costs, arising out of or resulting from such seismic operations.

(14) Grantee shall provide a bond to the City in the sum of One Hundred Thousand Dollars (\$100,000.00) conditioned that permittee will comply with the terms of this Ordinance.

(15) Limitation on type or amount of charge:

Charges shall not exceed three pounds (3 lbs.) per blast within 300 feet of the City

limits of the City of Bevil Oaks and all charges shall be detonated at least 100 feet below the surface of the ground.

(16) Grantee and the Officer of BOONE GEOPHYSICAL, INC., who executes this permit, covenants and warrants that he/she has authority to execute this document in behalf of the Corporation.

(17) Grantee shall file engineers plat with exact shot locations with the City prior to commencement of blasting operations.

(18) No charges shall be detonated nor any Vibra-seis machine used within the City limits of the City of Bevil Oaks.

Grantee agrees to and will in all things conform to the terms and provisions of Ordinance No. 80 of the Code of Ordinances of the City of Bevil Oaks which is incorporated herein by reference.

SIGNED this _____ day of _____, 1988.

JAMES SHULTS, MAYOR
CITY OF BEVIL OAKS, TEXAS

ATTEST:

Sherry Adams
SHERRY ADAMS, CITY SECRETARY
CITY OF BEVIL OAKS, TEXAS

ACCEPTED:

BOONE GEOPHYSICAL, INC.

By: _____
Its _____

That I, Elmer L. Kaans, (the Officer of the Corporation with authority to execute this document) of BOONE GEOPHYSICAL, INC., do hereby agree to all of the terms and conditions set forth on this Permit and in Ordinance No. 80 of the Code of Ordinances of the City of Bevil Oaks and do hereby specifically agree to and bind said Corporation to carry out each and every term and condition of said Ordinance and of said Permit.

Dated this 20th day of April, 1988.

BOONE GEOPHYSICAL, INC.

By: Elmer L. Kaans
Its Permit Agent
(Capacity)

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared Elmer L. Kaans, Permit Agent of BOONE GEOPHYSICAL, INC., a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 20th day of April, 1988.

Agnes M. Vaughn
NOTARY PUBLIC, STATE OF TEXAS
AGNES M. VAUGHN
(Printed Name of Notary)
My Commission Expires: 9-21-91