

ZAPATA COUNTY
Mary Jayne Villarreal-Bonoan
COUNTY CLERK
Zapata, Tx 78076

00152814



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Instrument Number: 2008-00152814

As

Recorded On: July 29, 2008

No Fee Recording

Parties: ZAPATA COUNTY JUDGE

To PUBLIC THE

Number of Pages: 8

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Fee Recording	0.00
Total Recording:	0.00

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Record and Return To:

Document Number: 2008-00152814
 Receipt Number: 2457
 Recorded Date/Time: July 29, 2008 01:33:17P
 Book-Vol/Pg: BK-OR VL-829 PG-96
 User / Station: J Lopez - Cash Station 1

ZAPATA COUNTY
 HOLD FOR OFFICE
 ZAPATA TX 78076

**State of Texas |
County of Zapata**

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Zapata County, Texas.

Mary Jayne Villarreal Bonoan
 Mary Jayne Villarreal-Bonoan, County Clerk

A TRUE COPY OF THE ORIGINAL
I CERTIFY ON THIS DAY

JUL 29 2008



MARY JAYNE VILLARREAL-BONOAN, CO. CLERK
 ZAPATA COUNTY, TEXAS
 BY *[Signature]* DEPUTY



CHAPTER IV

NOISE ABATEMENT ORDINANCE

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AN ORDINANCE AMENDING THE [CODE OF ORDINANCES] OF ZAPATA COUNTY, TEXAS, BY ADDING CHAPTER IV, ENTITLED, "NOISE ABATEMENT," REGULATING NOISE FROM THE DRILLING, PRODUCTION AND RE-DRILLING OF GAS WELLS WITHIN THE COUNTY; TO PROVIDE REGULATIONS REGARDING DISTANCE, NOISE AND TECHNICAL PROVISIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND NAMING AN EFFECTIVE DATE.

WHEREAS, the County has considered a noise ordinance that would improve the quality of life for those citizens working and living near sites of drilling, production and re-drilling of gas; and

WHEREAS, the County has considered noise abatement procedures that will provide additional protections of surface property rights but continue to allow access to the minerals; and

WHEREAS, the County Commissioners find that the regulation of noise from the development of gas and other hydrocarbon substances within and under the County is necessary in order to protect surface property rights, to protect the owners of mineral rights and to provide for the orderly exploration, development, and production of gas; and

WHEREAS, it is advisable to amend the County Ordinances to regulate noise generated by the drilling, production and re-drilling of gas so that these activities may be conducted in a manner that protects the public health, safety and welfare of the citizens of Zapata County, and conforms with established codes and regulations, while minimizing the potential impact of surface property and mineral rights owners; and

WHEREAS, the provisions set forth in this Ordinance shall be considered the minimum requirements for the development of gas and other hydrocarbon substances within and under the County and shall not relieve any person from any duty imposed by law to use reasonable care and precautions for the safeguarding of people and the protection of and noninterference of property rights.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSIONER'S COURT OF THE COUNTY OF ZAPATA, TEXAS:

SECTION 1.

The [Code of Ordinances] of Zapata County, Texas is hereby amended by adding Chapter IV, "Noise Abatement" to read as follows:

DIVISION I: PURPOSE

SEC. 1-01. PURPOSE.

The exploration, development, and production of gas in the County is an activity that necessitates reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to peaceably enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this Ordinance to establish reasonable and uniform limitations, safeguards and

regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of gas and other substances produced in association with gas within the City to protect the health, safety and general welfare of the public, to reduce noise, to minimize the potential impact to property and mineral rights owners, and to protect the quality of the environment and encourage the orderly production of available mineral resources.

DIVISION II: DEFINITIONS

SEC. 1-02. DEFINITIONS.

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this Ordinance shall have the meanings customarily attributable thereto by prudent and reasonable gas industry Operators. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. *Ambient noise level* means the all encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.
- B. *Building* means any structure used or intended for supporting or sheltering any use or occupancy. The term "building" shall be construed as if followed by the words "or portions thereof".
- C. *County* means Zapata County, Texas.
- D. *County Code* means the Code of Ordinances of Zapata County, Texas.
- E. *County Attorney* means the County Attorney of Zapata County, Texas.
- F. *Commission* means the Texas Railroad Commission.
- G. *Daytime* means the period from 6:00 a.m. to 7:00 p.m.
- H. *Decibel (db)* means a unit for measuring the intensity of a sound/noise and is equal to 10 times the logarithm to the base 10 of the ratio of the measured sound pressure squared to a reference pressure that is 20 micropascals.
- I. *Derrick* means any portable framework, tower, mast and/or structure that is required or used in connection with drilling or re-working a well for the production of gas.
- J. *Drill or Drilling* means the process of digging or boring a new well for the purpose of exploring for, developing or producing gas or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.
- K. *Fire Department* means the Fire Department of the County.
- L. *Frac or Fracing* means the process of fracture stimulation a rock formation.
- M. *Gas* means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.
- N. *Gas well* means any well drilled, to be drilled, or used for the intended or actual production of natural gas.
- O. *Gas Inspector or Inspector* means the Gas Inspector designated by the Commissioners Court of Zapata County, Texas.
- P. *Nighttime* means the period between 7:00 p.m. and 6:00 a.m.
- Q. *Operator* means, for each well, the person listed on the Railroad Commission Form W-1 or Form P-4 for a gas well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a

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unit Operator. If the Operator, as herein defined, is not the lessee under a gas lease of any premises affected by the provisions of this Ordinance, then such lessee shall also be deemed to be an Operator. In the event that there is no gas lease relating to any premises affected by this Ordinance, the owner of the fee mineral estate in the premises shall be deemed an Operator.

- R. *Person* means both the singular and the plural and means a natural person, a corporation, limited liability company, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind.
- S. *Property owner* means the owner of the surface property.
- T. *Protected Use* means a residence, religious institution, public building, hospital building, school or public park.
- U. *Public building* means all buildings used or designed to and intended to be used for the purpose of assembly of persons for such purposes as deliberation, entertainment, amusement, or health care. Public buildings include, but shall not be limited to, theaters, assembly halls, auditoriums, armories, mortuary chapels, dance halls, exhibition halls, museums, gymnasiums, bowling lanes, libraries, skating rinks, courtrooms, restaurants, shopping malls, stores, and hospitals.
- V. *Public park* means any land area dedicated to and/or maintained by the County for traditional park-like recreational purposes, but shall not include privately-owned amusement parks or privately-owned or privately-managed golf courses.
- W. *Re-drill* means re-completion of an existing well by deepening or sidetrack operations extending more than one hundred fifty (150) feet from the existing well bore.
- X. *Religious Institution* means any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.
- Y. *Residence* means a house, duplex, apartment, townhouse, condominium, mobile home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a Gas Well Permit is filed with the Gas Inspector.
- Z. *Re-working* means re-completion or re-entry of existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than one hundred and fifty (150) feet from the existing well bore, or replacement of well liners or casings.
- AA. *School* means (i) any public and private, primary and secondary educational facilities providing education up through and including the twelfth grade level and (ii) any licensed day care centers, meaning a facility licensed by the State of Texas or by the County that provides care, training, education, custody, treatment or supervision for more than six children under 14 years of age, and for less than 24 hours per day.
- BB. *Well* means a hole or holes, bore or bores, to any horizon, formation, or strata for the purpose of producing gas, liquid hydrocarbon, brine water or sulphur water, or for use as an injection well for secondary recovery, disposal or production of gas, or other hydrocarbons from the earth.

DIVISION III. GAS INSPECTOR

SEC. 1-03. GAS INSPECTOR.

- A. The Zapata County Commissioner's Court shall designate a Gas Inspector who shall enforce the provisions of this Ordinance. The Gas Inspector shall demonstrate a proven

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background in the drilling, production, and operation of gas wells or have a degree in petroleum engineering with a background in drilling and production. The Gas Inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this Ordinance and its particular provisions. Failure of any person to comply with any such order or directive shall constitute a violation of this Ordinance. The Gas Inspector may delegate the Gas Inspector's authority and duties to properly qualified employees or agents of the Gas Inspector. The Gas Inspector may promulgate lists from time to time, identifying approved vendors of noise abatement products or services.

- B. The Gas Inspector shall have the authority to enter and inspect any premises covered by the provisions of this Ordinance to determine compliance with the provisions of this Ordinance and all applicable laws, rules, regulations, standards or directives of the State and to issue citations for violations of this Ordinance. Failure of any person to permit access to the Gas Inspector shall constitute a violation of this Ordinance. The Gas Inspector shall conduct periodic inspections of all wells in the County to determine that the wells are operating in accordance within proper parameters as set out in this Ordinance and all regulations of the Commission.
- C. The Gas Inspector shall have the authority to request and receive any records, including any records sent to the Commission, logs, reports and the like, relating to the status or condition of any well necessary to establish and determine compliance with this Ordinance. Failure of any person to provide any such requested material shall be deemed a violation of this Ordinance.
- D. The Gas Inspector shall have the authority to allow alternatives to the technical standards of this Ordinance related to public safety and welfare, such as new technology, if (1) the Operator has demonstrated to the Gas Inspector's satisfaction that the alternatives provide equal or greater protection of the environment or public; and (2) the Gas Inspector has approved such alternative in writing to the Operator.

DIVISION IV: AGENT

SEC. 1-04. OPERATOR'S AGENT.

Every Operator of any well located in the County shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail. Every Operator so designating such agent shall within ten (10) days notify the County Judge in writing of any change in such agent or such mailing address unless operations within the County are discontinued.

DIVISION V: NOISE ABATEMENT

SEC. 1-05. NOISE.

- A. No well shall be drilled, re-drilled or any equipment operated at any location within the County in such a manner so as to create any noise which causes the exterior noise level when measured (1) at the nearest Protected Use receiver's/receptor's property line or (2) one hundred (100) feet from the nearest Protected Use structure (as measured to the closest exterior point of the building), whichever is closer to the receiver/receptor, that exceeds the Ambient Noise Level by more than five (5) decibels during daytime hours and more than three (3) decibels during nighttime hours. Fracing operations may not exceed the Ambient

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Noise Level by more than ten (10) decibels. Backflow operations may not exceed the Ambient Noise Level by more than five (5) decibels during nighttime hours.

- B. The Operator shall establish and report to the County the pre-drilling Ambient Noise Level prior to any drilling or re-drilling. Once the drilling or re-drilling is complete, the Operator shall establish and report to the County a new Ambient Noise Level prior to the installation of any new noise generation equipment.
- C. Adjustments to the noise standards set forth above in subsection A. of this section may be permitted in accordance with the following:

<u>Permitted Increase (dB)</u>	<u>Duration of Increase (minutes*)</u>
5	15
10	5
15	1
20	Less than 1

* Cumulative minutes during any 60-minute period

- D. All workover operations shall be restricted to daytime hours. "Workover operations" shall mean work performed in a well after its completion in an effort to secure production where there has been none, restore production that has ceased or increase production.
- E. The exterior noise level generated by the drilling, re-drilling or other operations of all gas wells located within six hundred (600) feet of a Protected Use shall be continuously monitored to ensure compliance. The cost of such monitoring shall be borne by the Operator.
- F. Acoustical blankets, sound walls, mufflers, or other alternative methods approved by the Gas Inspector, may be used to ensure compliance. Unless a variance is approved by the Gas Inspector, in advance and in writing, all soundproofing shall comply with accepted industry standards, and the following:
 - (1) individual acoustical blankets, sound walls or mufflers shall be:
 - (a) not less than ten (10) feet in height, twenty (20) feet in width and eighty (80) millimeters thick; and
 - (b) designed to reduce the noise level at a well by up to twenty-eight (28) decibels; and
 - (c) shall be securely mounted using methods approved by the Gas Inspector; and
 - (2) soundproofing materials shall be designed to minimize adverse visual impact and contrast, using visual resource management design techniques and the standard and supplemental environmental color chart developed by the United States Department of the Interior, Bureau of Land Management; and
 - (3) soundproofing materials shall be waterproof; and
 - (4) soundproofing shall be in compliance with all applicable fire and safety codes.
- G. The sound level meter used in conducting noise evaluations shall meet the American National Standard Institute's standard for sound meters or an instrument and the associated recording and analyzing equipment that will provide equivalent data.

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- H. A citation shall be issued for the failure to correct any violation of this Ordinance within twenty-four (24) hours of the notice of violation by either the Gas Inspector or the Zapata County Sheriff's Department.
- I. During nighttime operations, the operation of vehicle back-up alarms that are audible shall be prohibited or replaced with approved non-auditory signaling systems, such as spotters or flagmen. Deliveries of pipe, casing and heavy loads shall be limited to daytime hours, except for emergency situations. The Derrick Man and Driller shall communicate by walkie-talkie or other non-disruptive means when the Derrick Man is in the derrick. Horns may not be used to signal for connection or to summon crew (except that a horn may be used for emergency purposes only). The Operator shall conduct onsite meetings to inform all personnel of nighttime operations noise control requirements.

DIVISION VI: PENALTY

SEC. 1-06. PENALTY.

- A. It shall be unlawful and an offense for any person to violate any provision or requirement set forth under this Ordinance.
- B. Any violation of this Ordinance shall be punished by a fine of not more than two thousand dollars (\$2,000.00) per day, subject to applicable State law. Each day that a violation exists shall constitute a separate offense.

SECTION 2.

This Ordinance shall be cumulative of all other ordinances of Zapata County and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this Ordinance.

SECTION 3.

All rights or remedies of County, are expressly saved as to any and all violations of the County Code, or any amendments thereto, that have accrued at the time of the effective date of this Ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, the same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

It is hereby declared to be the intention of the Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the Commissioners without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

Any person, firm, corporation or other entity who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance

shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 6.

The Zapata County Judge is hereby directed to publish this Ordinance for two (2) days in the official newspaper of Zapata County, Texas, as authorized by V.T.C.A. Local Government Code Subsection 52.013.

SECTION 7.

This Ordinance shall take effect upon adoption and publication as required by law.

SECTION 8.

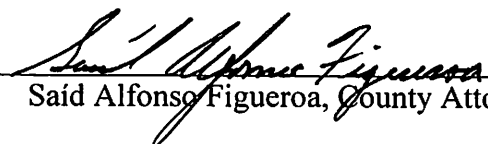
It shall be an affirmative defense to prosecution for violation of Section 1-05 of this Ordinance for violations occurring before August 1, 2008 that the Operator has taken all reasonable available measures to reduce noise and immediately, diligently, and in good faith attempted to procure additional noise abatement equipment but was unable to do so through no fault or delay of the Operator.

APPROVED ON JULY 14, 2008 BY THE ZAPATA COUNTY COMMISSIONERS COURT AND WILL BECOME EFFECTIVE ON AUGUST 1, 2008:



ROSALVA GUERRA
ZAPATA COUNTY JUDGE

APPROVED AS TO FORM AND LEGALITY:

By: 
Said Alfonso Figueroa, County Attorney

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A TRUE COPY OF THE ORIGINAL
I CERTIFY ON THIS DAY

JUL 29 2008



MARY JAYNE VILLARREAL-BONJAN, CO. CLERK
ZAPATA COUNTY, TEXAS
Mary Jayne Villarreal-Bonjan
DEPUTY