

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA AMENDING CHAPTER 25 OF THE COUNTY CODE, FOR PURPOSES OF REGULATING HIGH RISK PETROLEUM PRODUCTION OPERATIONS

The Board of Supervisors of the County of Santa Barbara finds and declares that there exists a need in Santa Barbara County for enhancing the existing Petroleum Code to protect the environment and the public health and safety from the effects of certain oil and gas drilling and storage operations which have a record of noncompliance or dangerous operations, and further, that these needs require specific legislative action to provide for the safety and health of the populace of the County. The following provisions of the Code of the County of Santa Barbara are adopted under authority of Section 7 of Article XI of the State of California.

Therefore, the Board of Supervisors of Santa Barbara County amends Chapter 25 of the County Code of Santa Barbara County and ordains as follows:

SECTION ONE

Chapter 25 Section 25-4, 25-16, 25-17, 25-18 and 25-43 of the Santa Barbara County Code is adopted and ordained as follows:

CHAPTER 25 Petroleum Code

Sec. 25-4. Definitions

The following terms as used in this Chapter 25 shall, unless the context clearly indicates otherwise, have the respective meanings set forth herein:

A-87 Cost Plan Charges are those charges and costs attributable to government operations under standard accounting practices pursuant to US Office of Management and Budget Circular A-87, as amended.

ANSI is the American National Standards Institute.

A.P.I. is the American Petroleum Institute.

Approved means approved by the Petroleum Administrator or approved pursuant to the regulations and standards adopted in Section 25-3.

Attended is the presence of a person who is close enough to petroleum operating facilities so that activities in or near such facilities may be reasonably observed.

Blow-out is the uncontrolled discharge of gas, liquids, or solids (or a mixture thereof) from a well.

Blow-out preventer is a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which is designed and capable of preventing a blow-out.

Building is a structure subject to provisions of the California Building Code and Chapter 10 of the Santa Barbara County Code.

Cellar is an excavation of sufficient size, generally lined with concrete or steel, to enclose the surface control valves and fittings of a well.

Class II Commercial Wastewater Disposal Well is a well that is used to dispose of oilfield wastewater for a fee and that is regulated by the DOGGR.

Completion of drilling occurs for the purpose of this Chapter 25, thirty days after the drilling crew has been released, unless drilling, testing or remedial operations are resumed before the end of such thirty day period.

Completion of a well occurs for the purpose of this Chapter 25, thirty days after either fluid production or fluid injection is established, excluding any test periods which will not exceed a cumulative duration of twenty-four hours.

The County is the County of Santa Barbara.

Deepening means the downward or lateral extension of any existing well bore, wherein all of the existing well will remain in use.

Deleterious substances shall mean produced water, or any other injurious chemical, waste oil, waste emulsified oil, basic sediment, mud with any injurious substances produced or used in the drilling, development, production, transportation, refining and processing of petroleum.

Derrick encompasses any framework, tower, or mast, together with all parts of and appurtenances to such structure, including any foundations, pump house, pipe racks and each and every part thereof, which is (are) required or used (useful) for the drilling for and the production of petroleum from the earth, except tanks used for storage purposes.

Desertion is the cessation of petroleum operations at a drill site without compliance with the provisions of this Chapter 25, relating to suspended operations or abandonment.

DOGGR is that particular division in the Department of Conservation, Division of Oil, Gas and Geothermal Resources, of the State of California.

Drilling is any boring into the earth for petroleum operations; but excluding any well drilled solely for the production of fresh water.

Drill site means the premises used during the drilling, maintaining, operating and producing of a well or wells located thereon.

Dwelling means any building or structure which has, for its primary purpose, human residence.

Enforcement Action is any administrative, injunctive, or legal action (either civil or criminal), to enforce, cite or prosecute a violation or efforts to abate or correct a violation (or dangerous or hazardous situation caused by a violation), including investigation, research, legal action, physical abatement, law enforcement and other necessary acts.

Facilities include tanks, compressors, pumps, vessels, and other large equipment or structures pertinent to oil field operations sited at a single location.

Fresh water pollution is the contamination of fresh water, either surface or subsurface, by salt water, mineral brines, waste oil, oil, gas or other deleterious substances, associated with, produced from, obtained or used in connection with the drilling, development, producing, refining, transporting or processing of oil or gas within the County.

GPS is a Global Positioning System

High Risk Operation – An oil or gas production, processing or storage facility which:

- (a) Has been in violation of Section(s) 25-25, 25-26, 25-27, 25-28, 25-30, 25-32, 25-35, 25-36, 25-37, 25-38, 25-39, and 25-40 of this Chapter for more than 30 consecutive days, or 45 days during the preceding 12 months; or
- (b) has three separate unauthorized releases of oil, water and/or other hazardous materials or fluids of a quantity not less than 25 barrels (1050 gallons) for each incident within a 12 month period.

High Risk Operator – The owner or operator of two or more petroleum production, processing or storage facilities fitting the definition of High Risk Operation, as designated by Section 25-43 (e)

Incidental equipment and appurtenances are facilities for the collection and/or separation of petroleum from water or other materials; for storage of water, petroleum or unrefined petroleum byproducts for recycling, re-pressuring or injecting such material for underground disposal, use or storage; and for preparation of such products for shipping and storage. It shall include lease facilities, processing plants, lease tanks, pipelines, test equipment, etc., but not include refineries, gasoline plants or their associated tanks or onshore operations directly related to offshore petroleum operations.

Injection well is a well used for the purpose of injecting fluids or gas into the ground.

Idle Well means any well that has not produced oil or natural gas or has not been used for injection for six consecutive months of continuous operation during the last five or more years. An idle well does not include an active observation well.

Lessee is the possessor of the right to develop and produce petroleum resources.

Lessor is the owner of a petroleum right subject to a petroleum base.

Long-term idle well means any well that has not produced oil or natural gas or has not been used for injection for six consecutive months of continuous operation during the last 10 or more years. A long-term idle well does not include an active observation well.

N.F.P.A. is the National Fire Protection Association.

Onshore is landward from the mean high tide line.

Operator is the person, whether proprietor, lessee or individual contractor, actually in charge and in control of the drilling, maintenance, operation or producing of petroleum from a well or wells.

Person encompasses any individual, firm, association, corporation, joint venture or any other group or combination acting as an entity.

Petroleum is crude oil, natural gas and petroleum derivatives.

Petroleum Administrator is the administrative official, his/her assistants, inspectors and deputies having the responsibility for the enforcement of this Ordinance.

Petroleum Operations are all activities in connection with the exploration, drilling for and the production of petroleum, gas and other hydrocarbons, together with all incidental equipment and appurtenances thereto.

Pipelines, for the purposes of this Chapter 25, shall mean all flow lines for the transportation of hydrocarbons or their by-products or of materials used in the production of unrefined hydrocarbons.

Plugged and abandoned well is a well that has been rendered unusable through compliance with the procedures outlined in Section 25-31 of this Code, or a well that is considered “plugged and abandoned” by the DOGGR as evidence by the issuance of a Report of Well Abandonment.

PPM is parts per million.

Produced water is water produced with oil and gas.

Re-drilling is the deepening of an existing well or the creation of a partial new well bore some distance below the surface of the earth. Typically that portion of the well bore below the kickoff point for the re-drill has been plugged and abandoned to DOGGR standards.

Re-entry is the process of cleaning a plugged and abandoned well by drilling, jetting, or other method.

Secondary and enhanced recovery operations include any such operation where the flow of hydrocarbons into a well are aided or induced with the use of injected substances including but are not limited to the introduction of or subsurface injection of water and natural gas, steam, air, CO₂, nitrogen, chemical substances and any other substance or combination thereof.

Shut Down Order is an order by the Petroleum Administrator to restrict or prohibit certain (or all) functions or operations at a facility or by an Owner or Operator pursuant to authority of this Chapter.

Structure is that which is built or constructed; a tank, edifice or building of any kind or any piece of work artificially built up or composed of parts jointed together in some definite manner.

Suspended operations encompass the suspension of drilling or re-drilling operations for more than thirty days.

Tank setting shall mean the area on a lease where tanks are located for collecting, testing, treating and/or shipping crude oil or other fluids incidental to petroleum operations.

USEPA is the United States Environmental Protection Agency.

Water Board shall mean the Central Coast Regional Water Quality Control Board.

Well is a hole, including a core hole, drilled or being drilled into the earth for the purpose of obtaining and removing or reintroducing into the ground, any substance for petroleum operations or which is to be used as an accessory to the production of petroleum, including the production, injection or disposal of USEPA designated Class II materials; but excluding any well drilled solely for the production of fresh water.

Well servicing including remedial or maintenance work performed within an existing well which does not involve drilling or re-drilling.

Well site means the premises used during the maintaining, operating and producing of a well or wells located thereon.

Sec. 25-16. Appeals.

Appeals from decisions, interpretations, or acts of the petroleum administrator, shall be filed in writing with the board of appeals or in the case of decision under Section 25-43(c) or (h) to the Director of Planning and Development. Appeals from decisions or interpretations the Director of Planning and Development shall be filed in writing with the board of appeals. Such appeals shall be filed within fifteen days of the act by the petroleum administrator or Planning and Development Director. Such board of appeals is hereby expressly declared to be the local appeals board referred to in Sections 17920.5 and 17925 of the Health and Safety Code. Such board of appeals is hereby authorized to hear appeals regarding the petroleum requirements of the county and shall have all of the power and authority conferred on a local appeals board under the said sections of the Health and Safety Code.

Any appeal to the Director of Planning and Development or the Board of Appeals hereunder shall be posted for Notice as to the time and place of a hearing in the same manner as an agenda notice of the County Planning Commission.

In cases where the Petroleum Administrator deems compliance with his decision to be necessary to prevent an imminent threat to public health or safety or to prevent immediate environmental damage, the Petroleum Administrator may require compliance with his decision pending outcome of an appeal to the Director of Planning and Development or the Board of Appeals..

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Sec. 25-17. Appeals Board.

The Board of Appeals shall consist of three members appointed by the Petroleum Administrator in conjunction with the Planning and Development Director to such terms of office as determined by the appointing officers. At least 2 of the members shall possess such experience and training as the Petroleum Administrator shall deem

appropriate to qualify such members to pass upon matters pertaining to the subject of the appeal. The Petroleum Administrator or his/her representative shall be an ex-officio member without voting rights. The Board of Appeals shall deliver written findings and decisions on all appeals considered by it to the applicant and the Petroleum Administrator within ten days from the date a decision was reached. The Board of Appeals shall be deemed a Brown Act body and all activities shall be carried out in conformity with the Brown Act open meetings law. In certain cases where the Board of Appeals cannot be assembled quickly or when requested by the appellant, the Petroleum Administrator in conjunction with the Planning and Development Director may, in their sole discretion, appoint a Hearing Officer to hear the case. All decisions of the Board of Appeals and/or the Hearing Officer shall be deemed final; subject only to judicial review.

Sec. 25-18. Appeals hearing fee.

A fee, as adopted by the board of supervisors, shall be paid to the petroleum administrator at the time of application for a hearing before Planning and Development Director or the Board of Appeals. The hearing fee shall be refunded in cases where the applicant has substantially prevailed.

Section 25-43. Remediation of High Risk Operations

- (a) Upon determination that any petroleum production, processing or storage operation meets the definition of High Risk Operation from Section 25-4, the Petroleum Administrator shall give the owner and operator notice of his or her intent to declare the operation a High Risk Operation under this Code Section. The goal of this section shall be to remediate the high risk operation and bring the facility and the operator within normal, safe operating standards and protect the public safety, health and environment.

(b) Along with the determination of the facility being a High Risk Operation, the Petroleum Administrator:

- 1.) may undertake an investigation, and ;
- 2.) shall make findings as to cause; and
3.) shall approve a mandatory plan for remediating the causative problems.

(c) The Owner or Operator of any such facility may appeal this determination to the Petroleum Administrator and shall have the opportunity to present evidence to the Petroleum Administrator at a noticed hearing. The Owner or Operator of any such facility may appeal any decision of the Petroleum Administrator to the Director of Planning and Development, and the appeal shall be solely on the issue of facts and existing administrative record previously before the Petroleum Administrator as to the applicability of the definition to the operation, the factual determination regarding the cause of the problems causing the high risk and the efficacy and reasonableness of the proposed remediation. Any decision of the Director of Planning and Development after appeal may be further appealed pursuant to Sections 25-16, 25-17 and 25-18 and that appeal shall be solely on the facts and existing administrative record previously before the Petroleum Administrator as to the applicability of the definition to the operation, the factual determination regarding the cause of the problems causing the high risk and the efficacy and reasonableness of the proposed remediation.

(d) The Owner or Operator of the High Risk Operation shall carry out the remediation plan and shall be responsible for paying all reasonable costs associated with:

1. County staff time in enforcing these provisions at an hourly rate that provides for full cost recovery of the direct and indirect costs including A-87 Cost Plan charges.
2. Investigative, research and consulting costs associated with preparation of the remediation plan,

3. Third party costs for investigation, consultation, engineering, clean-up, operator staff training, operations and all other related costs necessary to carry out the remediation plan;
 4. Any other costs necessary to remediate the high risk operation as ordered by the Petroleum Administrator.
- (e) Should any additional facility owned or operated by the Owner or Operator of the High Risk Operation facility meet the definition of a High Risk Operation within the period in which one facility is so declared or if more than one facility initially meets the definition thereof, the Petroleum Administrator shall have authority to declare the Owner or Operator to be a High Risk Operator and order a remediation plan for all petroleum facilities located in the County and under the control of the High Risk Operator. An order requiring a remediation plan for all petroleum facilities located in the County and under the control of the High Risk Operator shall be ordered only in cases where it is determined that the Operator is operating more than one facility in such a manner that indicates common risk factors, management practices or failures, safety procedures, operational or logistical errors, training deficiencies or other Operator caused problems are likely to exist at multiple facilities. Any High Risk Operator, so designated, or the Owner of any facility designated for such County-wide remediation plan may appeal this order in the same manner as outlined in paragraph (c).
- (f) At the sole discretion of the Petroleum Administrator, at any time during which a facility or Operator is subject to this Section, the Petroleum Administrator may require a bond be posted to cover the cost of remediating the causative problems of the High Risk Operation.
- (g) The designation of High Risk Operations or High Risk Operator shall continue to apply until the goals and guidelines of the remediation plan established hereunder is achieved. The remediation plan may be amended from time to time as necessary to achieve the purposes of this section. Any change to the remediation plan shall

be subject to appeal in the same manner as the original remediation plan pursuant to paragraph (c) above.

- (h) Failure of the Owner or operator of a High Risk Operation to post a bond required under this section or to reasonably achieve the goals and guidelines of an approved remediation plan under this section ~~may be cause for a shut down of the High Risk~~ Operation[s] or any other petroleum operations located in the County that are co-owned or co-operated by the High Risk Operator, at the discretion of the Petroleum Administrator. A shut down order under this subsection may be appealed by the High Risk Operator or any Owner ~~effected. to~~ the Director of Planning and Development. Any decision of the Planning and Development Director after appeal may be appealed to the Board of Appeals pursuant to Sections 25-16, 25-17 and 25-18.
- (i) Any County costs associated with enforcement of this section which are not promptly paid by the Owner or Operator shall be subject to enforcement by tax bill lien, or other civil collection methods.
- (j) The County may seek judicial order to enforce provisions of this Section and Code to protect the public health, safety and environment, including injunctive relief and receivership.
- (k) Nothing in this Section shall be deemed to prevent any other enforcement or applicability of any other relevant laws.

Comment [jb1]: Do we change this to "shall" ??

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SECTION TWO

This ordinance shall take effect and be in force thirty days from the date of its passage, and before the expiration of fifteen days after its passage it shall be published, with the names of the members of the Board of Supervisors voting for and against the same, in the Santa Maria Times, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____, 2008, by the following vote:

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AYES:

NOES:

ABSTAIN:

ABSENT:

Salud Carbajal, Chair
Board of Supervisors
County of Santa Barbara
State of California

ATTEST:

CLERK OF THE BOARD

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By _____
Deputy Clerk-

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_____¶

APPROVED AS TO FORM: _____ APPROVED AS TO FORM
COUNTY COUNSEL _____ AUDITOR-CONTROLLER

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Board of Supervisors¶
. of the County of Santa Barbara¶
. State of California

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By _____
Kevin Ready, Sr.
Senior Deputy County Counsel

By _____
Auditor-Controller

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