

City of Peñitas

Hidalgo County

Ordinance 2005-04

An Ordinance adopting certain regulations Related to oil and gas operations with in City Limits of Peñitas providing for a severability clause.

WHEREAS, City of Peñitas a general law City may regulate Oil and gas operation as authorized by Rail Road commission Regulation.

NOW THEREFORE, be it resolved as ordinance by the board of alderman as follows:

Section

Drilling

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- 141.02 Permit required for drilling generally
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Cross-reference:

- Limits on bulk storage of liquefied petroleum gas, see 93.27
- Limits on storage of explosives and blasting agents, see 93.28
- Limits on storage of flammable liquids in outside aboveground tanks, see 93.26
- Standard Fire Prevention Code, see 93.20 et seq.

DRILLING

§ 114.001 ONE-WELL LIMIT; EXCEPTIONS.

(A) It shall be unlawful to complete more than one well to each oil reservoir on each "40-acre oil unit," as such phrase is hereinafter defined, and, likewise, unlawful to complete more than one well to each non-associated gas reservoir on each "320-acre gas unit," as such phrase is hereinafter defined.

(B) The provisions of division (A) shall be subject to the following:

(1) In the event a well is lost or abandoned, the permittee may, subject to the provisions of § 114.010, relocate the well on the unit involved and drill and complete such relocated well under the permit for the replaced well by filing a plat and certificate showing the abandonment of the well to be replaced and the location of the substitute well; provided, however, that such proposed location of the substitute well shall be submitted to the City Council for its approval, and no substitute well shall be permitted until its proposed location is approved by the City Council.

(2) Nothing herein contained shall be construed as prohibiting multiple completions in the same well bore when authorized by the rules of the State Railroad Commission.

(3) In the event the spacing regulations of the State Railroad Commission permit the drilling in any oil reservoir or non-associated gas reservoir to a greater density than the density of one well to the 40-acre oil units or one well to the 320-acre gas units, then additional wells may be drilled in the various units to the extent that the units may be developed in accordance with such spacing regulations, and in the event additional wells are drilled, the same shall be drilled in accordance with the provisions hereof.

Penalty, see § 114.999

§ 114.002 PERMIT REQUIRED FOR DRILLING GENERALLY.

It shall be unlawful for any person to drill or commence to drill a well for oil or gas within the limits of the city, or to work upon or assist in any way in the prosecution of the drilling of any such well, except as provided in § 114.012, unless a permit for the drilling,

completion and operation of such well has first been issued by authority of the City Council in accordance with the provisions of this subchapter.

Penalty, see § 114.999

**§ 114.003 PERMIT REQUIRED FOR DRILLING IN STREETS;
USE OF STREETS.**

(A) It shall be unlawful to drill any well for oil or gas within any of the streets or alleys of the city, or to block or encumber or close up any street or alley in any drilling or producing operations, except by special permit by order of the City Council and then only temporarily.

(B) In order to enable the holder of each permit to remove oil, gas, water or other products from each drilling unit within the city limits, the holder of each permit issued under this subchapter for the drilling and operation of a well for oil or gas in the city is hereby granted rights-of-way and easements on, over, under, along or across the city streets, sidewalks, and alleys for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may be continued under any permit issued pursuant to this subchapter; provided, however, permittees shall not interfere with or damage existing water, sewer or gas lines, the facilities of public utilities, or any other improvement of facility located on, under or across the course of such rights-of-way. All crossings for pipelines under all paved or black-topped streets shall be bored or jacked, whenever required by the city, and such pipelines shall be buried beneath the surface of the streets and alleys to such depth as shall be safe for the pressure carried, and the holder of each permit, at such holder's own expense, shall at all times restore and repair the streets and alleys of any damage caused by the permittee in laying pipes and conduits.

Penalty, see § 114.999

**§ 114.004 APPLICATION FOR PERMIT; CONTENTS;
ADDENDA; FEE AND BOND; RIGHT OF ENTRY OF CITY
PERSONNEL.**

(A) An application for a permit to drill, complete and operate a well for oil or gas shall be in writing, signed by the applicant or by some person duly authorized to sign on applicant's behalf. The application shall be filed with the City Secretary and accompanied with a deposit of \$1,500 cash as a fee to the city. If the application is for a permit to drill an oil well, the application shall be accompanied by a plat designating a 40-acre oil unit. If the application is for a

plat designating a 320-acre gas unit. If the application is for a permit to drill a well which may be multiply-completed, such as one or more completions as anticipated oil completions and one or more completions as anticipated gas completions, the application shall be accompanied by a plat designating both 40-acre oil units and 320-acre gas units. Each such unit shall consist of contiguous acreage and shall be in as nearly the shape of a square or a rectangle as is reasonably practical, taking into consideration, however, such matters as existing property and lease lines, boundaries of previously designated oil or gas units, natural boundaries, availability of drill sites and other pertinent factors. Not any of the acreage included in an oil unit shall have previously been included in a prior oil unit which has been designated under the provisions hereof and not any of the acreage included in a gas unit shall have previously been included in a prior gas unit which has been designated under the provisions hereof. Issuance of the permit shall constitute approval of each such designation of unit, and the City Secretary shall maintain a map of the city showing designated oil units and designated gas units.

(B) Each such application shall state the particular lot and location in the unit where the proposed oil or gas well is to be located, and shall have attached to it a description of the oil and gas leases or *drilling contracts with the owners of land covering the lots, blocks or tracts in the drilling unit over which the applicant has control of oil rights or gas rights*, to the end that the application will show what proportion and what parts of the drilling unit the applicant owns in fee or holds under lease or drilling contract from the owners. The application shall also be accompanied by a plat or map of the drilling unit, showing the designation of the lots, blocks or tracts owned or controlled by the applicant and showing the proposed site of the well.

(C) (1) In the event a permit is issued by the City Council under the terms of this subchapter for the drilling and operation of a well, no actual drilling operations shall be commenced until a surety bond, duly executed by permittee, as principal, and by a reliable surety company authorized to do business in the state, as surety, in the amount and upon the conditions prescribed in this division, shall be filed and approved in writing by the City Secretary or until an instrument executed by the surety as hereafter prescribed is filed with and approved (in writing) by the City Secretary which makes the drilling and operation of such well subject to the terms and conditions of two surety bonds (totalling \$200,000 in the aggregate) previously filed by permittee hereunder. Applicant's bond to be filed hereunder shall be in the sum of not less than \$100,000, and shall run to the city for the benefit of the city and all persons concerned conditioned that:

(a) *The permittee will comply with the terms and conditions of this subchapter in the drilling and operation of the well;*

(b) The permittee will promptly restore the streets and

sidewalks and other public property of the city which may be disturbed or damaged in the operations to their former conditions, as near as practicable;

(c) The permittee will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the drilling and producing operations;

(d) The permittee will grade, level and restore the property to the same surface condition, as near as practicable, as existed when operations for the drilling of the well were first commenced; and

(e) The permittee will indemnify and hold the city harmless from any and all liability growing out of or attributable to the granting of such permit.

(2) Any such bond filed by a permittee hereunder shall become effective on or before the date filed with the City Secretary and remain in force and effect until the expiration of the term of the permit issued; subject, however, to the right of the surety company to cancel same after 30 days written notice of such intention has been given to the City Secretary, but the privilege of cancellation shall not affect any liability which may have arisen hereunder up to the time the bond above provided for shall have been cancelled, and such cancellation shall automatically suspend permittee's right to operate under permittee's permit until such time as permittee shall furnish another bond as required by this subchapter.

(D) If in accordance with the provisions of this section, when a permittee has filed with the city two \$100,000 surety bonds to cover the drilling and operation of wells under this subchapter, the permittee may drill and operate an additional well or wells hereunder without filing any additional surety bond as specified above; provided, the permittee files with the city an instrument (and obtains written approval thereof by the City Secretary) duly executed by the surety company named as surety, in each of the permittee's bonds on file with the city, agreeing that such bonds are in full force and effect in the aggregate sum of \$200,000 and that the terms and conditions of each bond shall thereafter likewise apply to the drilling and operation of the additional well or wells named therein.

(E) In addition to the bond required, each person drilling an oil or gas well shall carry public liability insurance in the minimum amount of \$100,000 for one person and \$300,000 for one accident, and property damage insurance in the minimum amount of \$1,000,000 for one accident, with a company authorized to do business in the state, which shall be in force and effect during the drilling of such well and until the completion thereof as a producing well or the abandonment and plugging thereof as a dry hole. A certificate of insurance shall accompany the application for the drilling permit and

shall be subject to the approval of the City Council. In the event any oil or gas well is completed as a commercially producing well, then permittee therefor shall be required to carry public liability insurance in a minimum amount of \$100,000 for one person and \$300,000 for one accident, and property damage insurance in a minimum amount of \$500,000 for one accident, which shall remain in force and effect and be so carried as long as such well is producing oil or gas, or either of them, in commercial quantities and until plugged and abandoned. A certificate of insurance, subject to approval of the City Council, shall be furnished annually by the permittee or the owner and operator of such well, showing that such insurance is being carried and continues in effect.

(F) Those in control of the drilling or operation of any oil or gas well in the city shall permit a representative or employce of the city to come upon the premises and make inspections and tests at all reasonable hours.

Penalty, see § 114.999

§ 114.006 CONDITIONS OF ISSUANCE OF PERMIT IN CASE OF PARTIAL OWNERSHIP OF UNIT.

(A) In the event an application for a permit for the drilling, completion and operation of a well either for oil or gas shall be made by any person not owning or not holding leases of oil or gas rights or drilling contracts from the owners of all lots, blocks or parcels of land included in or embraced within a drilling unit, a permit shall be issued to such applicant, heirs, successors and assigns only upon the following conditions in addition to such other conditions as may be provided for in other sections of this subchapter.

(1) The applicant shall be free to enter into such contracts and agreements with the owners of such other lots, blocks or tracts as such applicant may be able to make.

(2) If agreements are not reached with all owners of lots, blocks and tracts within the drilling unit, then the owner of any given lot, block, or tract shall have the right or option, by notice to the permittee given in writing within 30 days after the issuance of a permit for a well on the drilling unit involved, either:

(a) To treat such owner's interest as a working interest and contribute toward the actual cost and expense of drilling, completing and operating the well with all necessary appurtenances currently each month in the proportion that the number of square feet in area owned by such owner in the drilling unit bears to the total number of square feet embraced in the unit, and thereupon receive the same proportion of the oil produced and saved from such well, or its value at the well, at the option of the permittee, and a like proportion of gas well gas and casing-head gas produced, saved and utilized or sold, or the value of same at the well, at the option of the permittee; or

(b) To treat such owner's interest as a royalty interest and receive, deliver free of cost in the pipeline to which the well may be connected, a share of all oil produced and saved from such well equal

to one-eighth of the proportion of the whole quantity of oil so produced and saved that the number of square feet in the area owned by such owner bears to the total number of square feet in such drilling unit, or at the election of permittee, to receive such proportion of the value at the well of the oil so produced, and to receive a like proportion of the gas well gas and casing-head gas produced, saved and utilized or sold, or at the election of permittee, the market value at the well of such proportion of gas well gas or casing-head gas produced and sold or used off the premises, or, for gas sold at the well, such proportion of the amount realized from such sale.

(c) If any owner does not exercise the right and option above provided, and give notice to the permittee within the period above provided, the obligation shall then be upon the permittee, permittee's heirs, successors and assigns to make settlement with such owner on the terms provided in option (2)(b) above, providing for the payment of a one-eighth royalty.

(d) If the owner of a lot, block or tract shall exercise option (2)(a) and treat such owner's interest as a working interest, as therein provided, the permittee shall be entitled to reimburse such permittee's self for such owner's proportionate part of the costs out of such owner's proportionate part of the oil, gas well gas and casing-head gas, or the value thereof, before making deliveries of products or settlement for the value thereof.

(e) If option (2)(a) is exercised by the owner of any lot, block or tract, such owner shall, within the time provided for notice of such owner's election above set forth, file with the City Secretary a bond or other obligation executed by such owner as principal and by an authorized surety company as surety, in which such principal and surety agree, bind and obligate themselves to pay to the permittee, permittee's heirs, successors and assigns currently each month that proportion of the actual and necessary costs and expenses involved in the drilling, completion and operation of such well that the number of square feet embraced within the lot, block or tract of such owner bears to the total number of square feet in such drilling block, such bond to be approved by the Mayor as to amount and held by the City Secretary for the benefit of the beneficiaries therein.

(B) Permits shall be issued in all such cases and shall be subject to the provisions of § 114.012 and upon the condition that the permittee, permittee's heirs, successors and assigns shall make settlement in accordance with the provisions hereof.

In case there should be filed with the City Secretary and pending at the time applications made by more than one applicant for permits to drill to the same reservoir on any single drilling unit within the limits of the city, that application shall be granted, if otherwise sufficient, which shall be made by the person holding the greater area of ground within the drilling block by ownership in fee or by lease or other contract authorizing the drilling and operation on land for oil and gas.

§ 114.008 OPERATOR AND AGREEMENTS WITH OTHER INTERESTED PERSONS.

(A) The permittee in any drilling unit, or permittee's assigns, shall be only one person and such person shall be known as the operator thereof for oil or gas, and shall be held primarily accountable under the provisions of this subchapter.

(B) The interests of persons other than the operator who hold oil and gas leases, or equivalent contracts in any drilling unit shall be treated as part of the total working interest of the block, and such other persons holding such interests shall each make the following election with the operator prior to the time a well is commenced on the block - either:

(1) To agree in writing with the operator to contribute their share of all costs and expenses, properly allocated to the well and drilling unit by operator in accordance with accepted accounting practice, currently each month in the proportion that the number of square feet in area held by them or each of them in the drilling unit bears to the total number of square feet embraced in the unit, and to execute a bond or deposit securities to be held in escrow by such depository as the City Council may designate to secure such agreement, the bond or securities to be in an amount at any given time sufficient reasonably to protect the interests of the operator under such agreement. Thereupon the persons so acting shall be entitled to participate in the total working interest under the unit, and the persons so acting shall have the right, upon reasonable notice given to the operator, upon the furnishing of storage tanks or facilities for handling the same, and upon the payment of, or securing the payment of, their share of the royalty interests and any overriding royalty or oil payment interests thereof, to receive in kind their proportionate share of oil or gas produced and saved from the well in the drilling unit and allocated to the working interest of the well; or

(2) If such other persons, or any one of them, fail to elect under division (B)(1) above prior to the time the operator commences

that operator shall be entitled to reimburse such operator's self currently each month from such other persons' proportionate share of the proceeds of sale or production in kind for twice the amount of such other persons' proportionate part of the costs and expenses as set out in option (B)(1) above; provided, however, the operator and such other persons, or any one of them, shall be able to alter the obligations as set out in this section by an agreement made by them in writing, provided such agreement is not repugnant to other rules and regulations set out in this subchapter.

(C) Such other persons, as described in its section, shall have ten days after receiving written notice of intention of the operator to commence drilling operations within which to make the election set out in this section, and such other persons may advise the operator as to drilling or operating the well on such drilling unit, but final authority and responsibility therefore shall rest solely on the operator.

114.009 PERMIT ISSUANCE OR REFUSAL TO ISSUE.

(A) The Board of Alderman shall have the power, and reserves the authority, to refuse any application for a permit to drill any well at any particular location within any drilling block, where by reason of such particular location and the character and value of the permanent improvements already erected on the drilling block in question or adjacent thereto, or because of the use to which the land and surrounding are adapted for school, college, hospital, park or civic purposes, or for health reasons or safety reasons, or any of them, the drilling of such well on such particular location might be injurious, or be a disadvantage to the city, or to its inhabitants as a whole, or to a substantial number of its inhabitants, or to visitors as a group, or would not promote orderly development and conservation of oil, gas and minerals, or orderly growth and development to the city, but when a permit shall be refused for any of these reasons, but not otherwise, the deposit in cash as a fee made with the application shall be returned to the applicant, less a \$100 filing fee to be retained by the city.

(B) Except as hereinbefore provided, if an application is found by the Board of Alderman to comply in all respects with the terms of this subchapter, the City Secretary shall issue a permit for the drilling, completion and operation of the well applied for. The granting and issuance of a permit for a well on a drilling unit or block as provided in this subchapter shall automatically operate as a rejection and denial of all other pending applications for wells to be completed in the same reservoir upon the drilling unit or block involved, or any portion thereof.

114.010 Permitted to own or lease land; Expiration and renewal of permit; return of bond and the like.

(A) No permit shall be granted or issued for the drilling of a well except upon ground owned by the applicant or held by applicant under oil and gas lease or drilling contract from the owner, giving the owner's permission or authority to drill a well thereon, and when permit shall have been issued, the same shall terminate and become inoperative without any action on the part of the Board of Alderman unless within 180 days from the date of issue, actual operations for drilling of the well shall have been commenced.

(B) After the operations for drilling of the well shall have commenced, the cessation of operations for drilling prior to the completion of the well for a period of six months shall operate to terminate and cancel the permit (save as otherwise provided with respect to the relocation of such well according to 114.001), and the well shall be considered as abandoned for all purposes of its subchapter and it shall be unlawful thereafter to continue the operation or drilling of such well without the issuance of another permit.

(C) Provided, that if the well shall be completed as a well capable of production and shall thereafter cease to be capable of production the permittee shall have the right to conduct reworking operation on the well within six months after it becomes incapable of production without having to procure a new permit.

(D) If any when any permit shall terminate and become inoperative as provided in this section, or if and when the permittee or permittee's assigns shall file within the Board of Alderman written notice of election to surrender the permit and abandon the premises covered thereby, then if no claims under the bonds or undertakings shall have been filed within 90 days thereafter, the City Secretary shall return the bonds or undertakings and the securities therefore furnished by the permittee in connection with such permit, and if claims are filed within such time, upon the satisfaction or defeat of such claims such bonds or undertaking and securities shall thereupon be returned to the permittee or permittee's assigns.

114.001 OPERATIONS RULES.

In operations under a permit the permittee or permittee's assigns must observe the following rules, and the failure to observe same shall

be unlawful:

(A) After any oil or gas well is brought into production, there shall be no storage or receiving tanks kept within the city limits, but the same shall be kept on the outside thereof.

(B) In no event shall earthen slush or mud pits be dug or used within the city.

(C) No field working tank having a capacity of 10,000 barrels or more shall hereafter be built nearer than 200 feet (measured from shell to shell) to any other like tank.

(D) Printed signs reading: "DANGEROUS, NO SMOKING ALLOWED," or similar words, shall be posted in conspicuous places near each producing well, tank battery, and the like.

(E) All permittees' premises shall be kept clear of high grass, weeds and combustible trash, within the fenced enclosure around an oil tank or producing well, or, if there is no fenced enclosure, within a radius of 25 feet around an oil tank or producing well.

(F) Open earthen storage for oil is prohibited.

(G) All oil tanks, where there is a gas hazard, shall be gas tight and provided with proper gas vents.

(H) No open flame shall be placed inside the derrick of a well showing oil or gas.

(I) All oil and gas pipelines laid upon or across a public road or highway must be buried to a reasonably safe depth.

(J) Standard operating procedures under the applicable rules and regulations of the State Railroad Commission as well as those ordinary practices adhered to by prudent operators in this area shall be followed in:

(1) The setting and cementing of surface casing and oil strings.

(2) The testing of surface pipe and oil strings.

(K) Two fluid-operated blowout preventers shall be used for all drilling or completion operations involving the use of drill pipe, casing or tubing after surface casing has been set. The mechanical operation of blowout preventers shall be tested at reasonable intervals and in addition they shall be tested with bump pressure frequently enough to insure good working order at all times.

(L) All wells shall be equipped with wellhead assemblies and christmas trees of working and test pressures as provided in applicable rules and regulations of the State Railroad Commission and in addition shall conform with standard practice and procedures used by prudent operators in this area.

(M) No boiler or electric lighting generator shall be placed or remain nearer than 150 feet to any producing well or oil tank.

(N) Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least 100 feet from the vicinity of wells, tanks and pump stations. All wastes shall be disposed of in such manner as to avoid creating a fire hazard or polluting streams and fresh water strata.

(O) All producing wells, pits and tank batteries shall be protected with a six-foot woven fence having a barbed wire guard at the top and a gate with lock.

(P) Only portable slush tanks for mud or water shall be permitted in connection with the drilling and reworking operations. The tanks and their contents shall be removed from the premises and the drilling site within ten days after completion of the well.

(Q) Motive power for all operations after completion of drilling operations shall be electric or properly muffled gas or gasoline engines. All pumping wells shall be equipped with electric motors gas lift facilities, or properly muffled gas or gasoline engines.

(R) Permittee shall make adequate provisions for the disposal of all salt water or other impurities which such permittee may bring to the surface, such disposal to be made in such manner as not to contaminate the fresh water supply, present or prospective, or to injure surface vegetation.

(S) In order to protect the fresh water sands which are the source of water supply for this city, the casing program of all wells drilled hereafter in this city not otherwise excepted from the terms of this subchapter shall include surface casing of new or reconditioned pipe. Fresh water sands to be protected are herein defined as those above a minimum depth of 850 feet or greater depth as stipulated by the Texas Natural Resource Conservation Commission or State Railroad Commission in the event special field rules are adopted. To protect fresh water, a permittee shall set surface casing to the depth stipulated by the Texas Natural Resource Conservation Commission or the State Railroad Commission, in the event special field rules are adopted, but in no instance to a depth less than 1,150 feet and cement with sufficient cement to fill the annulus from the casing set depth to the surface and provide return of uncontaminated cement at the surface.

Cementing shall be by pump and plug method. Cement shall be allowed to stand a minimum of 12 hours under pressure and 24 hours before drilling plug or initiating test. After cementing, the surface casing shall be tested by pump pressure of at least 750 pounds per square inch. If at the end of 30 minutes the pressure shows a drop of 150 pounds per square inch or more, the casing shall be condemned. After the corrective operations the casing shall again be tested in the same manner. It is controllingly provided, however, that in the event a permittee can establish to the satisfaction of the Board of Alderman that the fresh water sands can be adequately protected by use of other means or measures, any or all of the foregoing requirements may be waived by the Board of Alderman.

(T) Any and all the provisions of this subchapter may be waived by the Board of Alderman upon a showing by the permittee to the satisfaction of the Board of Alderman that the planned manner of operation by the permittee or the equipment to be used by the permittee will adequately protect the public health, safety and welfare.

114.012 RIGHTS OF LANDOWNERS; REWORKING FOR INJECTION OF SUBSTANCE AUTHORIZED.

(A) Neither this subchapter nor any permit issued hereunder shall be interpreted to grant any right or license to the permittee to enter upon or occupy in any respect in drilling or production operations any land except by the written consent of the owner, nor shall it limit or prevent the free right of any lot owner to contract for the amount of royalty to be paid with respect to such owner's own land or other consideration therefore, or for damages, rights or privileges with respect thereto.

(B) Nothing contained herein shall be interpreted to require a permit of the reworking, deopening or plugging back of any well or completing of any well for the sole purpose of injection of water, gas or other substance.

114.013 ZONING CODE INAPPLICABLE

The Zoning Code of the City, being Chapter 156 shall not be considered as being in conflict with this subchapter and permits to drill oil or gas wells shall be allowable within zoning district in the City.

Liquefied Petroleum Gas

114.030 DEFINITIONS.

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

Gas Utilities Docket NO. 141. The rules and regulations issued by the State Railroad Commission.

Inspection. The Fire Marshal or the Fire Chief or Code Enforcement Officer

Liquefied Petroleum Gas. Any material, which is, composed predominately of nay of the following hydrocarbons or mixtures of them: propane, propylene, butanes, (normal butane or isobutene, and butylenes).

Premises. The grounds, as well as all buildings and appurtenaties pertaining thereto, and any adjacent premises, if directly or indirectly under the control of the same person.

Vehicle. Any automobile, truck or trailer and any appurtenances pertaining thereto.

114.031 COMPLIANCE WITH STATE REQUIREMENTS.

No person shall keep, store retain handle haul, transport, dispense, distribute, use or consume within the corporate limits of the City any liquefied petroleum gas except upon full compliance with the requirement of the state.

Statutory reference:

Liquefied Petroleum Gas Code see Tex. Natural Resources Code 113.001 et seq.

114.032 DECLARATION OF NUISANCE; NOTICE TO ABATE.

Whenever liquefied petroleum gas equipment is found to be defective or improperly installed, or is being handled or operated in such manner as to become a menace to the public safety or welfare, the same may be deemed a nuisance by the Fire Marshal or Fire Chief by the serving of a written notice upon the owner thereof, or upon the person having control thereof on the premises, whereupon the matter covered in such notice shall be immediately remedied or abated. In the event the applicant is dissatisfied with the determination of the inspector, the applicant may appeal to the Board of Alderman, which shall review such decision and enter an order thereon.

114.033 PERMIT REQUIRED.

(A) *generally.* No person shall install or alter any tank, container or equipment for the storing or consumption of liquefied petroleum gas, or installs any piping for the distribution or use of liquefied petroleum gas, on any premises within the City until such person shall have secured a permit from the City.

(B) Plans and specification Piping, pipe fittings, appliances and other equipment designed or intended for the distribution and utilization of liquefied petroleum gas shall not be installed, repaired, extended or altered until a detailed set of plans and specification for such use and equipment has been filed in the office of the Building Inspector and approval and permits obtained.

114.034 INSPECTION AND APPROVAL OF INSTALLATION BEFORE USE; FEES.

(A) *By Building Inspector.* Tanks and containers shall not be placed in service or filled upon the premises of the ultimate user until the work of installation has been inspected and approved by the Building Inspector.

the storage and dispensing of liquefied petroleum gas for the purpose of providing gas for industrial, commercial and domestic uses shall be designed, constructed, equipped and installed as specified in the rules and regulations promulgated and adopted by the State Railroad Commission, together with its amendments and supplements, for the design, installation and construction of containers, equipment and appurtenances for the storage and handling of liquefied petroleum gas, and these regulations are on file with the City Secretary and are available for inspection and examination by the public at all reasonable times.

(B) All tanks, containers, and appurtenant equipment installed for use within the corporate limits of the city for the purpose of providing liquefied petroleum gas for industrial, commercial and domestic uses shall be designed, constructed, equipped and installed in a manner as required by the laws of the state as defined in the *Gas Utilities Docket No. 141* together with its amendments and supplements (regulating the handling and odorization of liquefied petroleum gases and specifications for the design, construction and installation of equipment used in the transportation, storage and dispensing of liquefied petroleum gases and adoption of terms and reports) and all special regulations of the State Railroad Commission as now or hereafter promulgated in conformity with the laws of the state.

(C) Fire extinguishers of the type and size recommended by the inspecting authority shall be provided and maintained in good working condition, at those storage tanks being used for the purpose of transferring liquefied petroleum gas to motor fuel tanks or other containers.

(D) Storage tank installations shall have adequate protection in the form of guard rails or bumpers to protect them from mechanical damage from being bumped or run into by trucks or other mobile equipment.

§ 114.037 CONTAINERS OVER 2,000 GALLONS.

Containers larger than 2,000 water gallons capacity shall not be erected, installed or used; provided, this restriction shall not be applicable to those containers attached to and used on vehicles for transportation purposes; and provided further, containers larger than 2,000 water gallons capacity may be authorized and installed only after the applicant has first obtained and presented to the proper city officials a written approval of such installation by the Chief Engineer

of the State Fire Insurance Commission and by the Director of Liquefied Petroleum Gas Division of the State Railroad Commission.

§ 114.038 ALTERING CONTAINER ACCESSORIES AND THE LIKE BY LICENSED PERSONS.

Adjustments, changes or alterations in the accessories, devices, regulators and safety devices of liquefied petroleum gas containers shall not be made except by persons licensed by the State Railroad Commission to do such work.

§ 114.039 USE OF CONTAINERS INSIDE BUILDING.

Portable liquefied petroleum gas containers may be used but not stored inside of a building when required as a fuel supply container for Underwriter Laboratory-approved torches being used in the construction, repair or improvement of the building or structure and its fixtures and equipment, or for other industrial uses when such installations comply with the following requirements: regulator shall be connected directly to cylinder valves, containers shall not have an aggregate capacity in excess of 100 pounds, and such containers while being used in a building shall not be placed so that they are subject to excessive rises in temperature, mechanical inquiry, or to tampering by unauthorized persons.

§ 114.040 CONDITIONS TO INSTALLATION FOR DOMESTIC AND SMALL COMMERCIAL USE.

(A) Piping, pipe fittings, appliances and other equipment designed or intended for the distribution and utilization of liquefied petroleum gas for domestic and small commercial use shall not be installed, repaired, extended or altered except that it be made to comply with the following requirements.

(B) All piping, appliances and equipment shall be installed in full compliance with the ordinances of the city regulating installations for natural gas except where otherwise specifically required by this

A master cut-off valve painted red shall be readily accessible to firefighters in case of fire.

(C) Liquefied petroleum gas at pressures in excess of one pound per square inch shall not be permitted inside buildings without specific approval of the Fire Marshal.

(D) All piping shall be of metal, of a type, quality and strength suitable for use with liquefied petroleum gas. All pipes shall have welded joints or threaded joints fitted with approved joint compound which is not soluble when used with liquefied petroleum gas, or approved tubing with compression of flared fittings may be used. All piping shall be provided to drain in its entirety to a point outside of the building or structure in which installed. A suitable and approved type of liquid trap shall be installed when required outside the building or structure in an approved manner, and no other pockets or low places shall exist in the gas system which might provide a trap for liquid gas. If piping is to be placed underground, it shall be buried not less than two feet underground in a trench used for no other purpose.

(E) When an existing natural gas piping system is to be used for liquefied petroleum gas, all piping of the existing system shall be removed, checked and installed in the manner prescribed for new liquefied petroleum gas installations.

(F) All appliances used with liquefied petroleum gas shall be designed for use with the particular mixture of liquefied petroleum gas normally supplied to the piping system. Automatic appliances having a pilot light shall have an approved automatic safety cut-off.

(G) Liquefied petroleum gas piping, appliances and equipment shall not be permitted in basements or pits or in any other low place where such gas can collect to form a dangerous inflammable mixture.

(H) Houses having continuous foundations shall have adequate vents to prevent accumulation of possible escaping gases under such house; if liquefied petroleum gas piping is installed under the house, such vent should be located at normal grade level.

(I) Natural rubber or leather, including rubber hose, shall not be used where in any manner exposed to the solvent action of liquefied petroleum gas.

(A) . *Vehicle specifications generally.* All vehicles used for the transportation or removal of liquefied petroleum gas over the streets, alleys or public thoroughfares of the city shall be designed, constructed and operated in accordance with the published regulations for the design, construction and operation of automobile tank trucks and tank trailers for the transportation of liquefied petroleum gas, as defined in *Gas Utilities Docket No. 141*, together with its amendments and supplements, which regulations are on file in the office of the City Secretary and may be examined and inspected by the public at all reasonable times.

(B) *Compliance with state container requirements.* All containers for hauling or transporting liquefied petroleum gas upon or over any premises or upon any street, alley or public thoroughfare within the city shall be designed, constructed and operated in a manner as required by the laws of the state and all special regulations of the State Railroad Commission as now or hereafter promulgated in conformity with the laws of the state.

(C) *Maintenance.* All vehicles, tanks or containers for transporting liquefied petroleum gas shall be kept in good condition at all times, and, if found in use when in a hazardous condition or in need of repair, the use and condition shall constitute prima facie evidence of a violation of this subchapter.

(D) *Loading or unloading in the city.* Railroad cars and trucks and trailers transporting liquefied petroleum gas in bulk shall not be loaded or unloaded within the corporate limits of the city except on premises that have been approved by the Fire Marshal.

(E) *Vehicle identification.* No vehicle transporting liquefied petroleum gas shall be allowed inside the city limits unless it has been state approved and carries a current liquefied petroleum gas vehicle identification card and such vehicle is maintained in good condition.

(F) *Parking of transportation vehicle on streets.* No vehicle used for transporting liquefied petroleum gas shall be parked or stored on the streets, alleys, public thoroughfares or at any other point except on premises owned or leased by the owner of the vehicle and approved as permanent tank locations as provided for in § 114.037; provided, however, the vehicle may be parked at the point where the commodity is to be delivered and such delivery is made without undue delay.

(G) *Transferring gas between vehicles.* No liquefied petroleum gas shall be transferred from one vehicle to another on any streets, alleys, public thoroughfares or at any point other than the premises on which permanent storage tanks are located, except that in case of emergency such transfer may be made under the supervision of the Fire Marshal or Fire Chief.

(H) *Exempt vehicles.* It is specifically provided that vehicles using liquefied petroleum gas for fuel for motive power and self-propulsion, which gas has a vapor pressure less than 200 pounds per square inch at 100°F., are exempt from all other requirements of this subchapter provided they comply with the following requirements:

(1) Tanks or containers for liquefied petroleum gas shall not exceed 30 water gallon capacity for passenger vehicles and shall not exceed 250 water gallon capacity for all commercial vehicles, including trucks and buses, and such tanks shall be provided with complete free air ventilation downward to avoid accumulation of gas.

(2) Tanks or containers for liquefied petroleum gas shall be designed and equipped for 200 pounds per square inch minimum working pressure, and shall comply fully with the regulations of the State Railroad Commission, including the regulations relative to excess flow valves and installation on vehicle.

(3) Tanks, containers, regulators, carburetors and all other equipment to make a complete system for using liquefied petroleum gas as a fuel shall be subject to such further regulation as the Fire Marshal may find necessary in the interest of public safety.

Penalty, see §

§ 114.042 MAXIMUM VAPOR PRESSURE FOR TRANSFERRING GAS; FILLING CONSUMER CONTAINERS.

(A) Persons having liquefied petroleum gas for sale or for distribution within the corporate limits of the city shall not fill tanks or containers, including tanks and containers on vehicles, with a gas having a vapor pressure which, at 100°F., is greater than the working pressure of the such tank or container being filled, nor shall any such gas be transferred when the pressure in the originating vessel exceeds the safety valve setting on the receiving container.

(B) No consumer container shall be filed at any but at an

§ 114.062 PERMITS REQUIRED; FEES; BOND.

(A) All persons, prior to the installation by them of any underground motor fuel storage tank within the limits of the city, shall make application to the City Secretary for a permit authorizing such installation, and such application shall be made upon a form prescribed by the City Manager. Such applicant, upon being issued such permit, shall pay to the city a fee of \$25, such fee to be in addition to any building permit fee due the city by such applicant for any building permit obtained in connection with any such installation permit.

(B) All persons, prior to the installation by them of any underground fuel dispensing pumps within the limits of the city, shall make application to the City Secretary for a permit authorizing such installation, and such application shall be made upon a form prescribed by the City Manager. Such applicant, upon being issued such permit, shall pay to the city a fee of \$5, such fee to be in addition to any building permit obtained in connection with any such installation permit.

(C) A minimum reinspection fee of \$5 will be charged on all classes of permits falling within this subchapter, if inspection fails on first inspection.

(D) A \$5,000 contractor's surety bond payable to the city shall be deposited with the city before any of the permits falling within this subchapter are issued.

Penalty, see § 114.999

§ 114.063 MAXIMUM UNDERGROUND STORAGE TANK CAPACITIES.

The maximum capacity of tanks for underground storage of motor fuel, as determined by the distance of such tanks from all other buildings, including the buildings of the town of such tanks, shall be determined and fixed by the following schedule:

<i>Distance</i>	<i>Maximum Capacity</i>
Less than 10 feet away	550 gallons
10 to 20 feet away	2,000 gallons

20 to 25 feet away	5,000 gallons
25 to 30 feet away	15,000 gallons
30 to 40 feet away	20,000 gallons
40 to 50 feet away	50,000 gallons
More than 50 feet away	Unlimited

Penalty, see §

§ 114.064 UNDERGROUND STORAGE TANK MATERIALS.

All underground motor fuel storage tanks installed within the limits of the city must be constructed of galvanized steel, basic open hearth steel, or wrought iron of a minimum gauge (U.S. Standard), and the material and construction of such underground motor fuel storage tanks is hereby prescribed and fixed upon a schedule of capacity of such tanks as follows:

<i>Capacity</i>	<i>Minimum Thickness of Material</i>
1 to 560 gallons capacity	14-gauge U.S. Standard
561 to 1,100 gallons capacity	12-gauge U.S. Standard
1,101 to 4,000 gallons capacity	7-gauge U.S. Standard
4,001 to 10,500 gallons capacity	$\frac{1}{4}$ -inch U.S. Standard
10,501 to 20,000 gallons capacity	$\frac{3}{16}$ -inch U.S. Standard
20,001 to 30,000 gallons capacity	$\frac{1}{8}$ -inch U.S. Standard
Over 30,000 gallons capacity	To be determined by the Building Inspector

Penalty, see §

§ 114.065 UNDERWRITER'S LABEL ON UNDERGROUND STORAGE TANKS

All underground storage tanks for the storage of motor fuel shall bear the Underwriter's label, and it shall be unlawful to install any underground motor fuel storage tank within the limits of the city which does not bear the Underwriter's label.

§ 114.066 UNDERGROUND TANKS TO HAVE RIVETED JOINTS; AIR TEST; TANK STRENGTH.

All joints of underground motor fuel storage tanks must be riveted and soldered, riveted and caulked, brazed, welded or made tight by some equally satisfactory and effective process. Each underground storage tank before being installed must be tested under air pressure and made free of all leaks, and all such tanks must be sufficiently strong to bear without injury the most severe strains and pressure to which they are liable to be subjected when placed in use. The shells of all such storage tanks must be properly reinforced where connections are made, and all connections, as far as practical, must be made through the upper side of such tanks above the liquid level. It is further provided that all such storage tanks, prior to installation, must be thoroughly coated on the outside with tar, red lead, asphaltum or other suitable and effective rust resisting material.

Penalty, see §

§ 114.067 VENT OPENINGS ON UNDERGROUND TANKS.

All underground motor fuel storage tanks must be provided with a permanently open vent. All such vent openings must be screened with 30 by 30 brass mesh or its equivalent, and must provide adequate area for allowing a proper flow of air or vapor during filling operation. All vent pipes must be provided with weatherproof hoods and terminated at a point at least 12 feet above the top of the fill pipe, and never within less than three feet, measured horizontally and vertically, from any window or other building opening, and never less than 18 inches above the eaves of a roof when the vent pipe is run up the side of a building. In no case shall vent pipes be smaller than 1½-inch galvanized iron pipe. Vent pipes shall be installed with fall sufficient to allow any liquid in such pipes to drain back into the storage tank.

Penalty, see §

§ 114.068 UNDERGROUND TANK FILL PIPES; PIPE SPECIFICATIONS.

All fill pipes to underground motor fuel storage tanks must not be located within five feet of any door, or other opening of any building, and all such fill pipes shall be equipped with vapor tight caps or plugs. It is further provided that all such fill pipes shall terminate in a metal box or casting set flush with the surface of slab or dirt covering the storage tank. All piping for fill pipes shall be of galvanized iron or brass and in no case smaller than two inches.

Penalty, see §

§ 114.069 PIPING SUCTION.

All piping suction shall be standard, full weight, wrought iron, or steel, or brass pipe, with substantial iron or brass fittings. Wrought iron or steel pipe or wrought or cast iron fittings shall be galvanized and in no event less than 1½-inch in size. Suction piping shall run as directly as possible, and shall be carefully protected against damage, and shall be laid in such manner that the pipes are pitched to supply tanks without sags. A swing joint consisting of two street ells, or equivalent, shall be installed in the suction line on top of the tank and beneath the pump, and at each bend in the line to allow for movement in case of expansion, contraction and settling.

Penalty, see §

§ 114.070 SEALING OF THREADED PIPE CONNECTIONS IN UNDERGROUND TANK INSTALLATION.

All threaded pipe connections, in the installation of any underground motor fuel storage tank, shall be sealed with a thread compound of the non-hardening type approved for use with motor fuel.

Penalty, see §

§ 114.071 DEPTH OF UNDERGROUND TANKS.

Underground motor fuel storage tanks shall have the top of such

tanks not less than three feet below the surface of the ground, and below the level of any piping to which such tanks may be connected, except that such tanks may be buried under 12 inches of earth and a cover of reinforced concrete of at least six inches in thickness be placed over the same, provided such cover extend at least 12 inches beyond the outline of such tank in all directions, and further provided that such concrete cover be placed on a firm and well-tamped earth foundation.

Penalty, see §

§ 114.072 STORAGE OF MOTOR FUEL AT RETAIL ESTABLISHMENTS.

It shall be unlawful to store motor fuel in aboveground tanks at any retail establishment except kerosene, which may be stored in aboveground tanks of not to exceed 150 gallons capacity.

Penalty, see §

114.99C

§ 114.073 PUMPS AND TANKS PROHIBITED ON SIDEWALKS AND THE LIKE.

It shall be unlawful to install any motor fuel or lubricating oil pump or tank upon any sidewalk, street, alley or intersection space between sidewalks within the city.

Penalty, see §

§ 114.074 STORAGE TANKS PROHIBITED UNDER STREETS.

It shall be unlawful to install any motor fuel storage tank underneath any street, sidewalk or alley within the city.

Penalty, see §

§ 114.075 ABANDONING UNDERGROUND TANKS.

It shall be unlawful for the owner of any underground motor fuel storage tank to abandon the same while such tank remains

underground without first removing all the contents thereof, giving notice to the Fire Marshal, and thereafter filling the tank with sand and fire extinguisher fluid under the supervision and direction of the Fire Marshal.

Penalty, see §

§ 114.076 USE OF STREET OR SIDEWALK BY RETAIL ESTABLISHMENT.

It shall be unlawful for the owner, manager, proprietor, or any agent, servant, or employee of the owner, manager, or proprietor of any retail establishment, where motor fuel is sold at retail, to obstruct any street or sidewalk, adjacent to any such retail establishment, or make such use of the street or sidewalk as to impede or endanger traffic thereon.

Penalty, see §

§ 114.077 OIL AND GREASE PROHIBITED ON SIDEWALKS AND STREETS.

It shall be unlawful for any owner, manager, operator or proprietor of any retail establishment, where motor fuel and motor oil is sold, to permit oil, grease, or other slick or greasy liquids to remain on any sidewalk adjacent to any such place of business.

Penalty, see §

§ 114.078 INSPECTION BEFORE CONCEALMENT; APPEAL.

Before any installation of any underground motor fuel storage tank is covered from sight, a notification in writing shall be given the Fire Marshal who shall, within 24 hours after the receipt of such notification, inspect the installation and give written approval or disapproval. Upon failure of the Fire Marshal to inspect within the specified time, the installation may be covered but shall be subject to inspection by the Fire Marshal at the expense of the city. Upon the refusal of the Fire Marshal to approve any installation, an appeal may be taken to the City Council, and the decision of the City Council shall be final.

Penalty, see §

114.999 Penalty.

- (A) Any person violating nay provision of this chapter for which no other penalty has been provided shall be punished as established in 10.99.
- (B) Any person violating any provision of this 114.30 et seq. (liquefied petroleum gas) or 114.060 et seq. (motor fuel) shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed \$1,000.

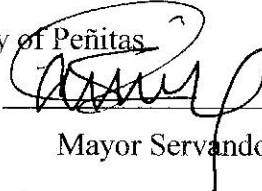
115. Severablity Clause

Shall any phrase, word, sentence, paragraph or portion of this ordinance be found void or voidable or unconsitutial the remaining portion shall remain in full force of effect.

Passed on this 5th day of October 2005 at a Regular Called meeting of Board of Alder men of the City of Peñitas at which a quorum was present.

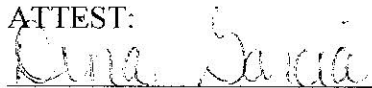
Signed on this 5th day of October 2005.

City of Peñitas



Mayor Servando Ramirez

ATTEST:



City Secretary

City Secretary