

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF VENTURA, STATE OF CALIFORNIA,
AMENDING DIVISION 8, CHAPTER 1, SECTIONS 8107-5.4, 8107-5.6.5, 8107-5.6.11,
AND 8107-5.6.12 OF THE VENTURA COUNTY ORDINANCE CODE, NON-COASTAL
ZONING ORDINANCE, PERTAINING TO OIL AND GAS EXPLORATION AND
PRODUCTION PERMIT TERMS, SURETIES AND INSURANCE**

The Board of Supervisors of the County of Ventura ("County") ordains as follows:

Section 1

Section 8107-5.4 of the Ventura County Ordinance Code is hereby amended to read as follows:

Sec. 8107-5.4 – Required Permits: Application Processing

a. No oil or gas exploration or production related use may commence without or be inconsistent with a Conditional Use Permit approved pursuant to this Chapter. Furthermore, a Zoning Clearance must be obtained by the permittee to confirm consistency with the Zoning Ordinance and/or Conditional Use Permit prior to drilling every well, commencing site preparation for such well(s), or installing related appurtenances, as defined by the Planning Director. However, a single Zoning Clearance may be issued for more than one well or drill site or structure. Possession of an approved Conditional Use Permit shall not relieve the operator of the responsibility of securing and complying with any other permit which may be required by other County Ordinances, or State or Federal laws. No condition of a Conditional Use Permit for uses allowed by this Chapter shall be interpreted as permitting or requiring any violation of law, or any lawful rules or regulations or orders of an authorized governmental agency. When more than one set of rules apply, the stricter one shall take precedence.

b. New Conditional Use Permits and permit modifications that include, but are not necessarily limited to, permit renewals or time extensions that authorize oil and gas exploration and production shall not be approved with a term that exceeds 15 years, although subsequent terms not to exceed 15 years may be sought pursuant to Renewal Applications in accordance with Section 8107-5.4(c) below. Post-closure activities such as any required site restoration may occur after a Conditional Use Permit's term expires.

c. This Section 8107-5.4(c), rather than Section 8111-2.10 (Continuance of Permit During Application Renewal) of this Article, shall apply to discretionary permit modification applications that include, but are not necessarily limited to, a request to renew the term of an existing Conditional Use Permit that authorizes oil and gas

exploration and production (hereinafter, "Renewal Application"). In order for an existing Conditional Use Permit that is the subject of a Renewal Application to remain in effect while said application is processed and acted upon by the County, the following application materials must be submitted to the Planning Division no later than 12 months before the expiration date of the existing Conditional Use Permit:

1. A completed County discretionary permit application form;
2. An executed County Reimbursement Agreement regarding the recovery of County costs to process the application;
3. An initial fee deposit for the processing of the application in accordance with the Planning Division Fee Schedule;
4. A site plan of the entirety of the area subject to the existing Conditional Use Permit that depicts the location and nature of all existing and proposed oil and gas facilities;
5. A list of all existing oil and gas wells located within the existing Conditional Use Permit area by American Petroleum Institute (API) number;
6. A written project description; and
7. Any other generally applicable application materials that are required in writing by the Planning Division.

In order for the existing Conditional Use Permit to remain in effect pursuant to this Section 8107-5.4(c) while a Renewal Application is processed and acted upon by the County, the applicant must also diligently pursue the application to final decision, including, but not limited to, by timely responding to all County requests for information that are required to process and act upon the application.

Section 2

Section 8107-5.6.5 of the Ventura County Ordinance Code is hereby amended to read as follows:

Sec. 8107-5.6.5 –Sureties for Oil and Gas Exploration and Production

a. Notwithstanding any provision or condition of this Chapter or any existing Conditional Use Permit or Special Use Permit to the contrary, the following requirements shall apply to any *person* who, by virtue of ownership, or under the authority of a lease or any other agreement, has the right to drill, operate, maintain, or control an oil and gas well or production facility in unincorporated Ventura County. Such *person* is defined as an "operator" for purposes of this Section 8107-5.6.5.

- b. Each operator shall file, in a form acceptable to County, surety bonds or cash equivalents as described below. Each surety shall list the County of Ventura as the obligee. Operators shall maintain the minimum amount of each surety with no gap in coverage until the operator has fulfilled and performed the obligation secured by each respective surety. County sureties required by this Section 8107-5.6.5 are additional to any sureties required by state and federal agencies for oil and gas operations.
- c. For purposes of this Section 8107-5.6.5, the term “well” shall have the same meaning as broadly defined by Public Resources Code section 3008, subdivision (a), and shall include the specific types of wells defined in Public Resources Code section 3008, subdivisions (b) through (e), as may be amended.
- d. Surety bonds shall be issued by an entity listed in the latest version of U.S. Department of Treasury Circular 570 that is authorized to issue bonds in California, and that has a bonding limitation shown in said circular sufficient to provide bonds in the amount required by this Section 8107-5.6.5.
- e. A cash equivalent surety may consist of a letter of credit, cashier’s check, or certificate of deposit. It must be prepared and issued by a federally insured commercial bank with an office in California in a form approved by County Counsel, payable to the County of Ventura, in an amount equal to the required surety or the sum of the amounts of the required surety.
- f. Each surety shall be conditioned upon the operator fulfilling and performing the obligation secured by the respective surety. In particular, the Surface Restoration Surety as described below shall be conditioned on the operator’s Restoration (defined below) of its oil and gas exploration and production sites in unincorporated Ventura County as determined and confirmed by the Planning Director or designee. The Well Abandonment Surety and Long-Term Idle Well Abandonment Supplement Surety as described below shall be conditioned on the operator’s proper plugging and abandonment of the operator’s wells in unincorporated Ventura County in accordance with the requirements of the California Geologic Energy Management Division or its successor agency, and any other applicable state and federal requirements. In case of any failure by the operator to perform its obligations under a surety, the Planning Director shall declare all or part of the surety forfeited in accordance with its provisions. The surety company and principal shall be jointly and severally obligated to pay forthwith the full amount of the forfeiture to the County of Ventura. The forfeiture of any surety shall not insulate the operator and/or property owner from liability in excess of the sum of the surety for damages or injury, or expense or liability suffered by the County of Ventura or other parties, from any breach by operator and/or property owner of any term or condition of a County permit or violation of any applicable law or governmental regulation. Each surety shall be promptly released and exonerated by County after all applicable obligations have been performed and satisfied.

g. Surety Amounts

- (1) Surface Restoration Surety. A Surface Restoration Surety is required to guarantee the operator's restoration and remediation of its oil and gas production and exploration sites in unincorporated Ventura County to as nearly their pre-oil and gas exploration and production condition as is practicable including, to the extent not inconsistent with state or federal law, by: removing all equipment, facilities, tanks, pipelines and other improvements associated with the above ground oil and gas operations; performing any required remediation of environmental contamination caused by said operations; and/or otherwise complying with all applicable local, state and federal restoration and remediation requirements including but not limited to all revegetation requirements contained in an existing Conditional Use Permit or Special Use Permit authorizing the land use (collectively, "Restoration"). All Surface Restoration Surety amounts forfeited to the County shall be held in trust and released to and used by the California Geologic Energy Management Division, County, or other County-approved *person* for the sole purpose of funding Restoration of the operator's site(s). The default amount of the Surface Restoration Surety shall be based on the total number of operator's wells, exclusive of properly abandoned wells, within unincorporated Ventura County as follows:

1-5 wells - \$100,000

6-10 wells - \$185,000

11-20 wells - \$300,000

21- 50 wells – \$500,000

51 – 100 wells - \$1,000,000

101 - 200 wells - \$3,000,000

201 - 400 wells - \$5,000,000

≥401 wells - \$10,000,000

In lieu of providing a surety in the above-stated default amount (hereinafter, "Default Amount"), the amount of the surety may reflect the estimated cost of Restoration of the operator's oil and gas exploration and production sites in unincorporated Ventura County as based on a restoration plan and cost estimate prepared by qualified third-party professionals at operator's sole expense ("Cost Estimate Amount"). For the surety amount to be initially established at the Cost Estimate Amount, the cost estimate and restoration

plan must be submitted to, and approved as to accuracy by, the Planning Division prior to the date the Surface Restoration Surety is initially due. Otherwise, the initial surety amount shall be the Default Amount which may thereafter be adjusted upon the Planning Division's approval as to accuracy of an operator-submitted cost estimate and restoration plan.

- (2) Well Abandonment Surety. A Well Abandonment Surety is required to guarantee the proper plugging and abandonment of the operator's wells in unincorporated Ventura County in accordance with the requirements of the California Geologic Energy Management Division or its successor agency, and any other applicable state and federal requirements. The amount of the surety shall be \$36,000 for each of operator's wells, exclusive of properly abandoned wells, not to exceed \$5,000,000 for any one operator for its wells located in unincorporated Ventura County. All Well Abandonment Surety amounts forfeited to the County shall be held in trust, and released to and used by the California Geologic Energy Management Division, County, or other County-approved *person* for the sole purpose of funding the plugging and abandonment of all wells covered by the surety in accordance with the requirements of the California Geologic Energy Management Division or its successor agency, and any other applicable state and federal requirements.
- (3) Long-Term Idle Well Abandonment Supplement Surety. A Long-Term Idle Well Supplement Surety is required, in addition to the Well Abandonment Surety, to further guarantee that long-term idle wells are properly plugged and abandoned in accordance with the requirements of the California Geologic Energy Management Division or its successor agency, and any other applicable state and federal requirements. The amount of the supplement surety shall be \$15,000 for each of operator's long-term idle wells that has been idle for 15 years or more, not to exceed \$5,000,000 for any one operator for its 15-year-plus idle wells located in unincorporated Ventura County. This supplement surety amount may be added to, and jointly filed with the County with, the required Well Abandonment Surety in cases where the sureties are covering the same wells. All Long-Term Idle Well Abandonment Supplement Surety amounts forfeited to the County shall be held in trust, and released to and used by the California Geologic Energy Management Division, County, or other County-approved *person* for the sole purpose of funding the plugging and abandonment of all wells covered by the surety in accordance with the requirements of the California Geologic Energy Management Division or its successor agency, and any other applicable state and federal requirements.

h. Calculating, Filing and Maintaining Sureties

- (1) New and renewed Conditional Use Permits shall include a condition of approval requiring the filing of all sureties required by this Section 8107-5.6.5 prior to use inauguration of the new or renewed permit.
- (2) Each operator with existing wells within unincorporated Ventura County shall submit a complete inventory of its wells (including but not limited to active, idle, plugged and abandoned) for review by the Planning Division by **[60 days after the effective date of the ordinance]**.
- (3) The Planning Director or designee shall verify the required surety amounts based upon review of information provided by the operator, the California Geologic Energy Management Division or its successor agency, and County permit records, and notify the operator in writing. Operators with existing wells in unincorporated Ventura County shall provide the Planning Division all sureties required pursuant to this Section 8107-5.6.5 within 180 days from the date of this notification.
- (4) Between January 1 and January 31st of each calendar year commencing the year immediately after operators submit their initial sureties pursuant to this Section 8107-5.6.5, each operator shall submit an annual inventory of its active, idle, plugged and abandoned, and other wells to the Planning Division, along with verification that the annual premiums for all required sureties have been paid. This shall be referred to as the "Annual Surety Review". During the Annual Surety Review, or at any other time, an operator may request a surety adjustment in the event the amount of a required surety has changed in accordance with the applicable provisions of this Section 8107-5.6.5.
- (5) At each five-year interval after the initial Annual Surety Review, each surety amount shall be inflation indexed (i.e., increased or decreased to account for inflation over the preceding five-year period) based on the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Los Angeles-Long Beach-Anaheim. Approximately 30 days prior to the Annual Surety Review process conducted on each such fifth year, the Planning Division shall notify each operator of the adjusted surety amounts, as inflation indexed. Operators shall thereafter submit replacement sureties to the Planning Division based on the applicable new amounts during the Annual Surety Review for that year.

Section 3

Section 8107-5.6.11 of the Ventura County Ordinance Code is hereby amended to read as follows:

Sec. 8107-5.6.11 – Site Restoration

a. Notwithstanding any provision or condition of this Chapter or any existing Conditional Use Permit or Special Use Permit to the contrary, the following restoration and remediation requirements shall apply to all existing and new oil and gas exploration and production sites and operations in unincorporated Ventura County. On expiration, revocation, relinquishment or abandonment of a Conditional Use Permit or Special Use Permit (collectively, “permit”) authorizing the subject oil and gas production exploration and production land use (“Termination of Use”), the operator or property owner must restore and remediate the site to as nearly its pre-oil and gas exploration and production condition as is practicable including, to the extent not inconsistent with state or federal law, by: removing all equipment, facilities, tanks, pipelines and other improvements associated with the oil and gas operations; performing any required remediation of environmental contamination caused by said operations; and/or by otherwise complying with all applicable local, state and federal restoration and remediation requirements including but not limited to all revegetation requirements contained in an existing Conditional Use Permit or Special Use Permit authorizing the land use (collectively, “Restoration”).

b. Within 90 days after Termination of Use, operator or property owner shall submit to the Planning Division a Restoration plan prepared by a qualified third-party professional at operator’s sole expense detailing the components and timing of Restoration. The Planning Director, in consultation with the California Geologic Energy Management Division, shall review and approve the Restoration plan if it is compliant with this Section 8107-5.6.11. Restoration shall be diligently pursued and completed within one year after the plugging and abandoning of the last oil well in the subject permit area, unless the Planning Director, in consultation with the California Geologic Energy Management Division, approves a different deadline for Restoration.

Section 4

Section 8107-5.6.12 of the Ventura County Ordinance Code is hereby amended to read as follows:

Sec. 8107-5.6.12 – Insurance

- a. Notwithstanding any provision or condition of this Chapter or any existing Conditional Use Permit or Special Use Permit to the contrary, the following requirements shall apply to any *person* who, by virtue of ownership, or under the authority of a lease or any other agreement, has the right to drill, operate, maintain, or control an oil and gas well or production facility in unincorporated Ventura County. Such a person is defined as an “operator” for purposes of this Section 8107-5.6.12.
- b. Each operator shall maintain the following insurance coverages with no gap in coverage, pursuant to the following terms and conditions, until full restoration of the operator’s oil and gas exploration and production site(s) in unincorporated Ventura County in compliance with this Article is confirmed by the Planning Director or designee:
 1. General Liability for Oil & Gas Businesses: General Liability, with at least \$2,000,000 each occurrence and \$4,000,000 general aggregate.
 2. Environmental Impairment: Pollution Liability Policy with coverage not less than \$10,000,000. Coverage shall apply to sudden and gradual pollution conditions resulting from: the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, natural gas, waste materials, or other irritants, contaminants, or pollutants (including asbestos) written on an occurrence basis. If the coverage is written on a claims-made basis rather than occurrence basis, any retroactive date applicable to coverage under the policy shall be no later than the policy inception date, and continuous coverage shall be maintained or an extended discovery period must exist for a period of at least three (3) years beginning from the date that full restoration of all of the operator’s oil and gas exploration and production sites in unincorporated Ventura County in compliance with this Article is confirmed by the County. If the operator is responsible for the transport of any hazardous waste this Pollution Liability Policy must cover said transport activity, or operator may add Insurance Services Office (ISO) endorsement CA 9948 and MCS-90 to a Business Automobile Policy.
 3. Control of Well (initial drill or well modification) coverage of a minimum of \$10,000,000 per occurrence to cover cost of controlling a well that is out of control, drilling or restoration expenses, and seepage and pollution damage.

4. Excess (or umbrella) Liability Insurance: Minimum limit of \$25,000,000 providing excess coverage for each of the perils insured by the preceding insurance policies.
 5. The County of Ventura, its boards, agencies, departments, officers, employees, agents, and volunteers shall be named as additional insureds ("Additional Insureds") as respect to all work done, activities undertaken, and operations conducted by the operator on all required insurance policies. All required insurance shall be primary coverage with respect to Additional Insureds, and any insurance or self-insurance maintained by Additional Insureds shall be excess of operator's insurance coverage and not contribute to it.
 6. Operator shall immediately inform the Planning Division if any aggregate insurance limit is exceeded in which case the operator must obtain additional coverage to meet the requirements of this Section 8107-5.6.12.
 7. Policies shall not be canceled, non-renewed or reduced in scope of coverage until after 60 days written notice has been provided to the Planning Division. Operator shall provide the Planning Division with certificates of insurance and Additional Insured endorsements demonstrating proof of any new policy with verification that it will be effective on or before the end of the existing policy.
 8. Operator shall require adequate insurance of its contractors and subcontractors.
- c. Operators with existing oil and gas wells or production facilities in unincorporated Ventura County shall provide the Planning Division with certificates of insurance and Additional Insured endorsements demonstrating proof of all insurance required by this Section 8107-5.6.12 by **[90 days from effective date of ordinance]**. New and renewed Conditional Use Permits shall include a condition of approval requiring the provision of said proof of insurance prior to the use inauguration of the new or renewed permit.

Section 5

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Ventura County Board of Supervisors hereby declares that it would have passed and adopted this ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

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Section 6

This ordinance shall become effective and operative 30 days after adoption.

PASSED AND ADOPTED this __ day of _____, 2022, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

CHAIR, BOARD OF SUPERVISORS

ATTEST:
Sevet Johnson, PsyD
Interim Clerk of the Board of Supervisors,
County of Ventura, State of California

By _____
Deputy Clerk of the Board