

## Subchapter 6 - Gas Wells

### 6.1 - Integrated Provisions

- 6.1.1 Sections 6.2: Gas Well Development, and 6.3: Gas Well Drilling and Production, relating to gas well development are intended as a set of integrated regulations. Each section may incorporate by reference other applicable provisions of this DDC that pertain to gas well development.
- 6.1.2 Section 6.3: Gas Well Drilling and Production, contains definitions that apply to all provisions regulating gas well development, and identifies impact mitigation standards and other general standards that apply to gas well development.
- 6.1.3 In addition to this Subchapter, Subchapter 5: Use Regulations, establishes zoning classifications for gas well development and Section 2.6.6, Gas Well Development Plat, establishes platting requirements and procedures for gas well development.

### 6.2 - Gas Well Development

#### 6.2.1 - Purpose, Authority and Applicability.

- A. **Purpose.** The drilling and production of gas and the development of gas well facilities within the corporate limits of the City necessitate promulgation of reasonable regulations to prevent devaluation of property; to protect watersheds; to ensure that Gas Well Drilling and Production Activities are compatible with adjacent land uses throughout the duration of such activities; and to assure that such activities conform to The Denton Plan. The regulations contained in Section 6.2: Gas Well Development; Subchapter 8: Subdivisions; and Section 6.3: Gas Well Drilling and Production, are designed to protect the health, safety, and general welfare of the public and to assure that the orderly and practical development of mineral resources is compatible with the quiet enjoyment of affected surface estates. The regulations contained in Section 6.2: Gas Well Development; Subchapter 8: Subdivisions; and Section 6.3: Gas Well Drilling and Production, are designed to implement the purposes set forth in this subsection and are supported by the following findings of fact:
1. Gas Well Drilling and Production Activities create externalities that potentially threaten the health, safety and general welfare of persons residing or working on property in proximity to such operations.
  2. Gas Well Drilling and Production Activities, in the absence of local regulatory controls, may emit high noise levels, produce large volumes of dust, congest local streets, present fire hazards and produce other deleterious effects, all of which fall disproportionately on adjacent land uses, and which can result individually or cumulatively in injury to persons, destabilization of property values, and inhibit the quiet peace and enjoyment of surface uses of real property in the vicinity of such operations.
  3. The City of Denton recognizes that the United States and the State of Texas primarily regulate Gas Well Drilling and Production Activities. Moreover, with the enactment of House Bill 40 on May 18, 2015 (Texas Natural Resources Code, Section 81.0523), the State of Texas has exclusive jurisdiction over Gas Well Drilling and Production Activities. Municipalities are preempted from regulating said activities except as allowed in Section 81.0523(c), which expressly provides that a municipality has authority to regulate certain aspects of aboveground activity related to oil and gas operations. The regulations in this Subchapter are intended to regulate under such authority, in order to implement compatible local objectives that assure the health, safety and general welfare of the City's residents and businesses.

4. The proliferation of gas wells and Drilling and Production Sites within the City of Denton creates conflicts between developments and other existing and future surface uses of the property. In order to assure the compatibility of residential, commercial and industrial uses with gas well development, it is necessary for the City to separate Gas Well Development from other surface uses within the City.
- B. **Authority.** This Subchapter 6: Gas Wells, is adopted pursuant to authority vested under the constitution and laws of the United States, the State of Texas and the City of Denton. Each authorization identified in this Subchapter 6: Gas Wells, shall be construed as an exercise of the City's zoning powers, pursuant to the Denton City Charter, TLGC Chapters 211 and 212 and the provisions of Subchapter 3: Zoning Districts of this DDC, as well as an exercise of its authority granted by Section 81.0523(c) of the Texas Natural Resources Code.
- C. **Applicability.** The provisions of Section 6.2: Gas Well Development and Section 6.3: Gas Well Drilling and Production, apply only within the corporate limits of the City of Denton, except as otherwise expressly stated therein.

#### 6.2.2 - Required Authorization for Gas Well Development in City Limits.

##### A. Zoning District Classifications for Gas Well Development.

1. Gas well development is classified as an industrial land use in all zoning districts.
2. Gas well development is permitted as set forth in Table 5.2-A: Table of Allowed Uses of the DDC, subject to the use-specific standards in Section 5.3: Use-Specific Standards, of the DDC and the standards in Section 6.3: Gas Well Drilling and Production. Gas well development also is permitted if authorized by a Master Planned Community ("MPC") or Planned Development ("PD") District.
3. In order to foster compatible land use within zoning districts, Gas Well Development within the corporate limits of the City will be subject to reasonable setbacks from Protected Uses and Residential Subdivisions, which vary according to the types of uses authorized in each district. Because many gas wells are already in close proximity to existing Protected Uses or Residential Subdivisions, setbacks standards within districts will vary according to whether the proposed Gas Well Development takes place on an Existing Site or a new site.
4. A Drilling and Production Site Setback is the distance that the site must be separated by an Operator from an existing Protected Use or Residential Subdivision. A Reverse Setback is the distance that a Protected Use or Residential Subdivision must be separated by a surface owner from an approved Drilling and Production Site. A Minimum Setback is the minimum distance of separation between a Drilling and Production Site and a Protected Use or Residential Subdivision after a waiver or variance is granted to reduce the setback requirement. A Minimum Reverse Setback is the minimum distance a Protected Use or residential lot must be separated by a surface owner from an approved Drilling and Production Site or from a gas well within such site after administrative relief or a variance is granted to reduce the reverse setback requirement.

##### B. Setbacks by Zoning District Classification. New Gas Well Drilling and Production Sites. Setbacks from Protected Uses and Residential Subdivisions for new Drilling and Production Sites, Reverse Setbacks and Minimum Setbacks shall be as follows. In order to reduce Drilling and Production Site Setbacks, the procedures outlined in Subsection 6.2.3, General Permit Requirements for New and Existing Gas Well Sites, shall be followed.

1. For new Drilling and Production Sites authorized in the RR, R1, R2, R3, R4, R6, R7, MN, MD, MR, SC, HC, GO, and PF districts, except in MPC or PD Districts:
  - a. Drilling and Production Site Setbacks: 1,000 feet.
  - b. Minimum Setbacks: 500 feet.
  - c. Reverse Setbacks: 500 feet.

- d. Minimum Reverse Setback: 250 feet.
- 2. For new Drilling and Production Sites authorized in the LI and HI zoning districts:
  - a. Drilling and Production Site Setbacks: 250 feet.
  - b. Minimum Setbacks: 250 feet.
  - c. Reverse Setbacks: 500 feet.
  - d. Minimum Reverse Setback: 250 feet.

Where a proposed Drilling and Production Site in the LI or HI zoning district is contiguous to the boundary of a district subject to the setbacks in Subsection B(1) above, the Drilling and Production Site Setback shall be 500 feet from Protected Uses or Residential Subdivisions within the adjacent district, the Reverse Setback shall be 500 feet, and the Minimum Setback and Minimum Reverse Setback shall be 250 feet.

- 3. For new Drilling and Production Sites in PD Districts and MPC Districts, Drilling and Production Site Setbacks and Reverse Setbacks shall be as provided in the PD District or MPC District regulations or as provided in subsequent site-specific applications approved prior to August 4, 2015. The Drilling and Production Site Setbacks and Reverse Setbacks in Subsection B(1) above shall apply to any setback not specified in the MPC or PD District regulations or in subsequent site-specific applications approved prior to August 4, 2015.

#### C. Setbacks for Existing Gas Well Sites.

- 1. For Existing Drilling and Production Sites in the LI or HI zoning district:
  - a. Drilling and Production Site Setbacks: 250 feet.
  - b. Minimum Setbacks: 250 feet.
  - c. Reverse Setbacks: 500 feet.
  - d. Minimum Reverse Setback: 250 feet.
- 2. For Existing Drilling and Production Sites in all other districts, except in MPC or PD Districts:
  - a. Drilling and Production Site Setbacks: 500 feet.
  - b. Minimum Setbacks: 250 feet.
  - c. Reverse Setbacks: 500 feet.
  - d. Minimum Reverse Setback: 250 feet.
- 3. For Existing Drilling and Production Sites in MPC or PD Districts, setbacks shall be as provided in the MPC or PD District regulations, or as provided in subsequent site-specific applications approved prior to August 4, 2015. The Drilling and Production Site Setbacks and Reverse Setbacks in Subsection C(2) above shall apply to any setback not specified in the MPC or PD District regulations, or in subsequent site-specific applications approved prior to August 4, 2015.

In order to reduce Drilling and Production Site Setbacks, the procedures outlined in Subsection 6.2.3, General Permit Requirements for New and Existing Gas Well Sites shall be followed.

#### D. Measurement of Setbacks.

- 1. A Drilling and Production Site Setback shall be measured from the actual or proposed boundaries of the Drilling and Production Site in a straight line, without regard to intervening structures or objects, to the closest exterior point of any structure occupied or utilized by a Protected Use or any residential lot boundary line on an approved Residential Subdivision plat when not currently occupied by a Protected Use.
- 2. The Reverse Setback shall be measured from the closest exterior point of the proposed structure to be occupied or utilized by a Protected Use or residential lot, in a straight line, without regard to intervening

structures or objects, to the closest boundary designated for the approved Gas Well Development Site Plan, or, if no Gas Well Development Site Plan has been approved for the site, from the closest boundary of the Existing Drilling and Production Site. For a proposed Residential Subdivision plat, the Reverse Setback shall be measured from any undeveloped residential lot boundary to the closest boundary designated for the approved Gas Well Development Site Plan, or, if no Gas Well Development Site Plan has been approved for the site, from the closest boundary of the Existing Drilling and Production Site.

3. For the purposes of setback measurements at public parks, measurements shall be taken from any improvement such as a building, playground equipment, pool, splash pad, regulation area of a permanent ball field or court, or pavilion. This definition does not include flatwork such as parking lots, sidewalks, or trails.
  4. The Reverse Setback for all other proposed Habitable Structures shall be the distance prescribed by the Fire Code. No permanent Habitable Structure, however, shall be located within the boundaries of a Drilling and Production Site.
- E. **Compliance with Fire Code Setbacks.** In the event of any conflict between the setback provisions established by this Section 6.2: Gas Well Development, and any setback provisions established by the Fire Code, as now adopted or hereafter amended by the City of Denton, whichever provision provides for the larger setback shall control.
- F. **Protected Use Setbacks.** After the effective date of this amendatory ordinance, a property owner who constructs a Protected Use must maintain a distance of 300 feet between the closest exterior point of the proposed structure to be occupied by the Protected Use and any equipment on a Drilling and Production Site that produces or stores flammable or combustible liquid or gas, to assure efficient emergency response operations. After such date, an Operator who locates any equipment that produces or stores flammable or combustible liquid or gas on a Drilling and Production Site must maintain a distance of 300 feet between such equipment and the closest exterior point of a structure occupied by a Protected Use.

(Ord. No. DCA19-009c, § 2(Exh. B), 11-19-19; Ord. No. DCA19-0009e, § 2(Exh. B), 1-28-2020)

### 6.2.3 - General Permit Requirements for New and Existing Gas Well Sites.

#### A. Permit Procedure Tracks.

##### 1. Gas Well Development Site Plan Required for Authorization of Multiple Wells.

- a. Other than for pending permit applications excepted from these regulations under Subsection 6.2.3E: Legal Non-Conformity; Exceptions, no Gas Well Permit shall be issued until a Drilling and Production Site has been established through approval of a Gas Well Development Site Plan for the well site. For an Existing Drilling and Production Site for which no Gas Well Development Site Plan has been approved, an Operator must obtain approval for a Gas Well Development Site Plan under these regulations before any additional wells may be permitted on the site, except as provided in Subsection 6.2.4A.1.b.
- b. In order to satisfy the setback requirements of Subsection 6.2.2, Required Authorization for Gas Well Development in City Limits, an Operator must use the procedures for approval of a Gas Well Development Site Plan set forth in subsections A(2), A(3), or A(4) of this Section.
- c. Once a Gas Well Development Site Plan has been approved, Drilling and Production Site Setback requirements will not apply to individual Gas Well Permit applications authorized by the approved Gas Well Development Site Plan. No variance or waiver from the setback for the Drilling and Production Site shall be required for subsequent wells.
- d. A new Gas Well Permit must be obtained for each well authorized by an approved Gas Well Development

Site Plan.

- e. Once a Gas Well Development Site Plan has been approved for an Existing Drilling and Production Site shown on a gas well development plat, such plat shall have no further force and effect with respect to that Drilling and Production Site.
2. **Procedures for Drilling and Production Sites that Meet Setback Requirements.** For a New or Existing Drilling and Production Site that meets the setback requirements in Subsection 6.2.2, Required Authorization for Gas Well Development in City Limits, an Operator may apply for a Gas Well Development Site Plan pursuant to Subsection 6.2.4: Gas Well Development Site Plans.
  3. **Procedures for Drilling and Production Sites That Do Not Meet Setback Requirements.** For a New or Existing Drilling and Production Site that does not meet the setback requirements in Subsection 6.2.2, Required Authorization for Gas Well Development in City Limits, the Operator may seek a waiver from 100 percent of the owners of Protected Uses and the owners of lots in Residential Subdivisions within the Drilling and Production Site Setback pursuant to Subsection 6.2.6A. In the alternative, the Operator may apply for a variance from the setback requirement from the Board of Adjustment pursuant to Subsection 6.2.6B. In the alternative, for qualified Drilling and Production Sites, the Operator may obtain a reduction in the site setback using incentive procedures in Subsection 6.2.6C. The Minimum Setback requirements under Subsection 6.2.2, Required Authorization for Gas Well Development in City Limits, shall apply. The notice provisions of Subsection 6.3.7A apply to proceedings under this subsection. Once a setback has been reduced through waivers or variance procedures, the Operator may apply for a Gas Well Development Site Plan pursuant to Subsection 6.2.4.
  4. **Special Procedures for Setbacks in PD and MPC Districts.**
    - a. The Operator and the surface owner of land in a PD or MPC District may present a unified plan that assures the compatibility of surface development and Gas Well Development of the property, taking into consideration setbacks from Protected Uses and Residential Subdivisions, traffic circulation and access, fire safety and emergency response, noise and light mitigation and other factors necessary to achieve compatibility of land uses. The plan may establish different Drilling and Production Site and Reverse Setbacks that vary from those prescribed in Subsection 6.2.2, Required Authorization for Gas Well Development in City Limits. The plan if approved by the City Council shall be incorporated into the zoning district regulations.
    - b. Where the Drilling and Production Site and Reverse Setbacks for Existing Sites within a PD or MPC district are less than the minimums set forth in Subsection 6.2.2, Required Authorization for Gas Well Development in City Limits, no amendments to the zoning district regulations for surface development or gas well development shall be approved by the City Council unless the setbacks are conformed to the requirements of this Section or a compatibility plan is presented and approved pursuant to paragraph (4) (a) above.
  5. **Procedures for Protected Uses or Residential Lots that Do Not Meet Reverse Setback Requirements.** For a new Protected Use or residential lot that does not meet the setback requirements in Subsection 6.2.2, Required Authorization for Gas Well Development in City Limits, the property owner may apply for administrative relief using the alternative design standards in Subsection 6.2.6C.2a, if applicable, or for a variance from the Reverse Setback requirement from the Board of Adjustment pursuant to Subsection 6.2.6B.
- B. **Sequence of Gas Well Permits.** The Operator must comply with all rules and regulations of the Fire Code and all other law, rules and regulations applicable to gas well operations, including, but not limited to, the following

provisions. No Drilling or Production Activities may commence within the City limits until the following authorizations have been obtained, in the following sequence:

1. Approval of a Gas Well Development Site Plan pursuant to Subsection 6.2.4, for new sites. Upon approval of a Gas Well Development Site Plan, the Operator may commence construction of a Drilling and Production Site. No disturbance of the land is allowed until a Gas Well Development Site Plan is obtained.
  2. The Operator shall obtain a Gas Well Permit for each new gas well on such site pursuant to the application requirements and standards of Subsection 6.2.5.
  3. Approval of a Temporary Above-Ground Storage Tank Permit from the Denton Fire Department.
  4. Approval of Gas Well Operational Permit from the Denton Fire Department.
  5. When all approvals contained in paragraphs (1) through (4) above have been obtained, applicant may commence Initial Drilling Activities.
  6. Approval of a Flammable and Combustible Liquids Construction Permit from the Denton Fire Department.
  7. Approval of a Flammable and Combustible Liquids Operational Permit from the Denton Fire Department.
  8. When all approvals contained in paragraphs (1) through (7) above have been obtained, applicant may commence Completion Operations and Production Activities.
  9. Approval of an Open Flame Operational Permit from the Denton Fire Department for flaring activities during any stage of operation.
  10. New Drilling or Production Activities on an existing Drilling and Production Site that is subject to an approved Watershed Permit, or on sites which required a Watershed Permit under prior regulations, but for which site no Watershed Permit was issued, are subject to the requirements of Subsection 6.3.9D.
  11. The applications for any authorization for gas well drilling and production listed in this Subsection B must be submitted and approved in the numerical order listed. No subsequent application shall be determined to be complete and hereby is deemed to be incomplete until all required prior applications have been approved, and no completeness determination shall be made until such prior applications have been approved.
- C. **Expiration of Permits, Plans.** Applications for gas well drilling and production shall expire under the following circumstances:
1. A Specific Use Permit which was approved under prior gas well regulations expires according to its terms, or pursuant to DDC, paragraph 2.5.2C.6: Step 6: Post-Decision Actions and Limitations.
  2. A Watershed Protection Permit, if applicable, expires with the expiration of a Gas Well Development Site Plan.
  3. A Gas Well Development Site Plan for a new Drilling and Production Site expires unless a complete application for a Gas Well Permit has been filed within one year of the date of approval of the Site Plan, or no drilling and production activities have occurred on the Drilling and Production Site for a period of three years. A Gas Well Development Site Plan for an Existing Site does not expire, unless no drilling and production activities have occurred on the site for a period of two years after all wells on the site have been plugged and abandoned.
  4. A Gas Well Permit expires if Initial Drilling Activities have not commenced within one year of the date of approval of the Gas Well Permit.
  5. Following expiration of an approved application for gas well drilling and production, a new application must be submitted.
- D. **Requirements are in Addition to Other Permits.** The authorizations required by this Subchapter are in addition to, and not in lieu of, any permits that may be required by any other provision of the Denton City Code, DDC or

any other government agency.

**E. Legal Non-Conformity; Exceptions.**

1. **Non-Conformities.** The provisions of Section 1.5, Nonconformities, are applicable to gas well drilling and production activities, except as provided hereinafter.
    - a. For purposes of Section 1.5, Nonconformities, the drilling of a new gas well and associated Production Activities do not constitute an existing lawful use.
    - b. The amendment of Table 5.2-A: Table of Allowed Uses and use-specific standards in Section 5.3: Use-Specific Standards, to provide for gas well Drilling and Production Activities shall not render non-conforming any Workover Operations, Drilling Activities or Production Activities for an existing well conducted on an Existing Drilling and Production Site, if such activities were authorized under a gas well permit that was approved by the Gas Well Administrator pursuant to gas well regulations in effect prior to the effective date of this amendatory ordinance.
    - c. The adoption of this amendatory ordinance or the application of such regulations to an Existing Drilling and Production Site shall not render non-conforming any Workover Operations, Drilling Activities or Production Activities for an existing well on such site, if such activities were authorized under a gas well permit that was approved by the Gas Well Administrator prior to the effective date of this amendatory ordinance.
  2. **General Exceptions.** The standards or procedures implemented by this amendatory ordinance shall not affect the processing and approval or disapproval of an application for a gas well permit that was pending for decision on the effective date of this amendatory ordinance, or any subsequent permit applications for the same gas well, or for a gas well for which a gas well permit was approved prior to the effective date of this amendatory ordinance, except to the extent necessary to give effect to Subsection 6.2.3E. For purposes of Subsection 6.2.3E.2, an amended Gas Well Development Site Plan application is not a subsequent permit application.
    - a. Authorizations or applications excepted under Subsection 6.2.3E.2. are subject to all gas well drilling and production standards in effect immediately prior to the effective date of this amendatory ordinance.
    - b. To the extent that any exception provided under Subsection 6.2.3E.2 is dependent on an application pending on the effective date of an amendatory ordinance, such application must have been approved subsequently in order for the exception to apply.
    - c. City shall, prior to annexation, provide notice of the City's intent to annex to each Operator affected by the annexation. Every Operator of a Drilling and Production Site that has been annexed into the City shall register the Drilling and Production Site not later than three days after the effective date of the annexation by contacting the Gas Well Administrator to ensure that gas well development plats and gas well locations are on file with the City. If they are not, the Operator shall provide the City with a copy of a gas well development plat and gas well location information.
- F. General Application Standard.** In addition to any other remedies available at law or in equity, the City may initiate proceedings to revoke any site plan, permit, variance or special exception approved pursuant to this Section 6.2: Gas Well Development, upon discovery that the applicant supplied false, fraudulent or misleading information that was material to approval of the application under the standards applicable to the permit, variance or special exception. All site plan or permit applications or requests for relief to the Board of Adjustment or requests for waivers shall be verified.

## 6.2.4 - Gas Well Development Site Plans.

### A. Gas Well Development Site Plan.

#### 1. Applicability.

- a. A Gas Well Development Site Plan approved under this amendatory ordinance is required to authorize multiple gas wells on a Drilling and Production Site and must be approved prior to issuance of any Gas Well Permit for any new well on the site.
- b. Notwithstanding subsection A, new wells identified on an approved Existing Gas Well Development Site Plan may be permitted in accordance with the gas well ordinance regulations in effect immediately prior to the effective date of this amendatory ordinance.
- c. A gas well development plat is not an Existing Gas Well Development Site Plan.
- d. A Gas Well Development Site Plan is not required to authorize Workover Operations, Drilling Activities or Production Activities for an existing gas well for which a gas well permit was issued prior to the effective date of this amendatory ordinance.

#### 2. Application Requirements.

- a. A cover page that includes a vicinity map of the Drilling and Production Site; a Sheet Index that identifies the number of Exhibits with titles for each (exhibit titles shall begin with the word 'Exhibit' and include the respective letter); the Project Title; the date of preparation; the preparer, Operator, and property owner's names; space for the City project number; and a signature block for both the Gas Well Administrator and the City Secretary.
- b. A mapping exhibit with an accurate legal description of the Drilling and Production Site that was prepared and certified by a Registered Professional Land Surveyor of the State of Texas. Provide closure sheet of bearings and distances used in legal description. The exhibit shall include exact location, dimension, and description of all existing public, proposed, or private easements, and public rights-of-way within the lease area, intersecting or contiguous with its boundary, or forming such boundary. Describe and locate all permanent survey monuments, pins, and control points and tie and reference the survey corners to the Texas State Plane Coordinate System North Central Zone 1983-1999 datum. Provide proposed pipeline route—note that a separate application may be necessary if the proposed route encroaches onto any public easement, right-of-way or land owned by the City of Denton.
- c. The maximum size of a proposed Drilling and Production Site shall be three acres, unless the Operator can demonstrate to the City at the time of filing of a Gas Well Development Site Plan application that: (i) the surface owner(s) has agreed to a larger site via a written agreement that will be recorded by the Operator in the Denton County records, (ii) the surface owner is subject to a covenant in a written instrument, or memorandum thereof, recorded prior to August 4, 2015, that authorizes a larger site, or (iii) the Operator can demonstrate that a larger site is needed to accommodate the planned gas well operations based upon the acreage that the Operator presently has under the mineral lease; provided that no new Drilling and Production Site authorized under (i), (ii) or (iii) may exceed seven acres, unless authorized by the Board of Adjustment. For a Gas Well existing on the effective date of this amendatory ordinance, evidence that the current Drilling and Production Site is greater than the maximum size shall be sufficient proof to demonstrate that a larger site is needed to accommodate the planned gas well operations proposed by the Gas Well Development Site Plan. A gas well development plat is neither a written agreement nor a written instrument or memorandum within the meaning of this subsection.
- d. A map showing the distance from the boundaries of the Drilling and Production Site from all Protected



Uses and Residential Subdivisions. If the separation distance(s) from Protected Uses and Residential Subdivisions do not meet the setback requirements of Subsection 6.2.2, the application also must include a copy of the waivers approved pursuant to Subsection 6.2.6A, or the approval of a setback variance approved by the Board of Adjustment pursuant to Subsection 6.2.6B. If the Operator seeks to qualify the proposed Drilling and Production Site for an administrative waiver pursuant to Subsection 6.2.6C, the information therein required shall be submitted with the application for site plan approval.

- e. A site plan of the Drilling and Production Site, capable of being recorded, showing clear site boundary lines and the location of all on-site improvements and equipment, including: tanks, pipelines, compressors, separators, and other appurtenances in relation to the boundaries of the site.
- f. A legal description of the proposed Drilling and Production Site.
- g. An Erosion and Sediment Control Plan. Such exhibit must include contact information, a physical site description including: land uses; general vegetation and surface water in near proximity; topography/contour lines both pre- and post-construction; hydrologic analysis including: stormwater directional flow, outfalls, water well related structures and water sources; receiving waters; soils; project narrative with general timeline; well pad site plan including: fueling areas, waste disposal containers, hazardous materials storage, and product and condensate storage tanks, soil stabilization and erosion control measures including: list of selected stormwater measures, site map of selected stormwater measures, locations and final stabilization plans; solid waste management plan, septic/portoilet location; and maintenance plan for stormwater controls including schedule and transfer of ownership provision. See Gas Well Erosion and Sediment Control Plan Guidance Document for details.
- h. An Access and Transportation Plan identifying the points of access and routes to be followed on the road network supporting gas well development on the Drilling and Production Site over time, and the internal circulation plan for the property containing the proposed site, including provisions to protect vehicle access to Neighborhood Streets. The Plan shall contain specifications for construction of the access road(s) and on-site fire lanes that meet the standards for emergency access set forth in paragraph 6.3.2E. A map showing transportation route and road for equipment, supplies, chemicals, or waste products used or produced by the gas well operation shall be included. The map shall illustrate the length of all public roads that will be used for site ingress and egress. The water source proposed for both the drilling and fracturing stages shall be identified in the Plan, together with a designation whether the water is to be hauled or piped to the site.
- i. A Landscape Plan. The project review planner will determine if a buffer is required based on the adjacent land use(s). If the planner determines a buffer is required, then a landscape plan must be submitted in accordance with the City of Denton's Landscape Plan Checklist. Not every Drilling and Production Site requires a landscape plan.
- j. A Tree Inventory and Preservation and Mitigation Plan. For sites with trees, a Tree Inventory and a Preservation Plan and Mitigation Plan pursuant to DDC, Subsection 7.7.4: Tree Preservation will be submitted.
- k. A copy of any prior approvals required, including conditions imposed, such as a specific use permit (SUP) or watershed protection permit;
  - l. A Noise Management Plan, prepared in accordance with paragraph 6.3.2F.2; and
- m. Proof of issuance of Notice of Activities pursuant to paragraph 6.3.7A.1.

### 3. Procedures and Criteria.

- a. **Processing of Application.** An application for a Gas Well Development Site Plan shall be processed in accordance with the requirements of Subsection 2.6.6: Gas Well Development Plat, and shall be decided by the Gas Well Administrator.
  - b. **Criteria.** The Gas Well Administrator shall approve the application if it meets the following standards:
    - i. The site meets the setback requirements of Subsection 6.2.2, a waiver has been granted or a variance from such standards has been approved by the Board of Adjustment or the Gas Well Administrator.
    - ii. The application is consistent with any applicable SUP, MPC or PD site specific authorization, or Watershed Protection Permit and any conditions incorporated therein.
    - iii. The application meets applicable requirements of Subsection 6.3.2.
    - iv. The size of the Drilling and Production Site can accommodate the number of wells proposed.
    - v. The site is adequately served by a road network, does not take access from any Neighborhood Street, and road remediation fees have been paid.
    - vi. Notice of the application has been posted pursuant to Subsection 6.3.7.
  - c. **Conditions.** The Gas Well Administrator may impose conditions that assure compliance with the terms of the prior approvals or standards of this Subchapter.
4. **Effect.** The approval of a Gas Well Development Site Plan authorizes the Operator to apply for a Gas Well Permit for each well authorized by the Site Plan and other permits required before commencement of Drilling Activities on the Drilling and Production Site.
  5. **Recordation.** An approved Gas Well Development Site Plan must be recorded by the Operator in the Denton County Records prior to the issuance of a Gas Well Permit.
- B. Amended Gas Well Site Plan.**
1. If the Operator proposes to do any of the following, an Amended Gas Well Development Site Plan shall be required. The applications shall be reviewed and decided in the same manner as the original application.
    - a. Relocate the boundaries of the Drilling and Production Site.
    - b. Expand the boundaries of the Drilling and Production Site.
    - c. Change the layout of the structures or appurtenances within the boundaries of the approved Drilling and Production Site.
    - d. Change the access road(s) or the location of the access road(s).
  2. The application shall be reviewed and decided in the same manner as the original application for the Drilling and Production Site.
  3. The setback requirements of Subsection 6.2.2 shall apply to activities described in paragraphs 6.2.4B.1.a and 6.2.4B.1.b above.
  4. An approved Amended Gas Well Development Site Plan shall be recorded as required by paragraph 6.2.4A.5 above.
- C. Expiration and Extension of Gas Well Development Site Plans.**
1. A Gas Well Development Site Plan for a new Drilling and Production Site expires unless a complete application for a Gas Well Permit has been filed within one year of the date of approval of the Site Plan, or no drilling and production activities have occurred on the Site for a period of three years.
  2. A Gas Well Development Site Plan for an Existing Site does not expire, unless no drilling and production activities have occurred on the site for a period of two years after all wells on the site have been plugged and abandoned.

3. An Operator may seek a special exception from the Board of Adjustment pursuant to paragraph 6.2.6B for a one-year extension of the expiration date for a Gas Well Development Site Plan for a new Drilling and Production Site.

#### 6.2.5 - Gas Well Permits.

##### A. Applicability and Exceptions.

1. Any person, acting for himself or acting as an agent, employee, independent contractor, or servant for any person, shall not engage in Initial Drilling Activities within the corporate limits of the City without first obtaining a Gas Well Permit.
2. A Gas Well Permit shall be required for each well. No Gas Well Permit shall be issued for multiple wells.
3. A Gas Well Permit shall not be required for exploration for gas. Exploration of gas means geologic or geophysical activities, including, but not limited to surveying and seismic exploration not involving explosive charges, related to the search for oil, gas, or other sub-surface hydrocarbons. A seismic permit is required for impact-based exploration.
4. A Gas Well Permit shall constitute authority for Initial Drilling Activities, Completion Operations, Production Operations, Workover Operations and Redrilling with proper notice pursuant to Subsection 6.3.7.
5. By acceptance of any Gas Well Permit issued pursuant to this section, the Operator expressly stipulates and agrees to be bound by and comply with the provisions of this Section 6.2: Gas Well Development and Section 6.3: Gas Well Drilling and Production, of this DDC. The terms of such provisions shall be deemed to be incorporated in any Gas Well Permit issued pursuant to this section with the same force and effect as if such gas well development regulations were set forth verbatim in such Gas Well Permit.
6. A Gas Well Permit is not required to authorize Workover Operations, Drilling Activities or Production Activities for an existing well conducted on an Existing Site, if such activities were authorized under a gas well permit approved by the Gas Well Administrator pursuant to gas well regulations in effect prior to the effective date of this amendatory ordinance; provided that nuisance and sound mitigation requirements under paragraph 6.3.2F.1 and paragraph 6.3.2F.2 and notice requirements under Subsection 6.3.7C shall apply to such activities. An Operator is not relieved from the obligation to obtain additional Fire Code permits for such activities.

##### B. Application Requirements. Applications for Gas Well Permits shall include the following:

1. File marked copy of recorded Gas Well Site Development Plan;
2. A completed application and permit form provided by the City that is signed by the applicant;
3. The application fee;
4. Upon completion of construction of the Drilling and Production Site, a copy of the As-built Gas Well Development Site Plan;
5. A copy of the permit issued by the RRC and corresponding API number;
6. Well and Operator information;
7. Description of work to be performed;
8. Anticipated start date;
9. Water source to be used for Completion Operations;
10. Verification that notices were provided in accordance with Subsection 6.3.7B; and
11. Proof of insurance and security.

##### C. Procedures and Criteria.

1. **Filing of Application.** All applications for Gas Well Permits shall be filed with the Department. Incomplete applications shall be returned to the applicant, in which case the City shall provide a written explanation of the deficiencies. The City shall retain a processing fee determined by ordinance. The City may return any application as incomplete if there is a pending before the Railroad Commission regarding the identity or authority of the Operator for the gas well.
2. **Criteria.** The Gas Well Administrator shall approve the application if it meets the following standards:
  - a. The application is consistent with the approved Gas Well Development Site Plan and any conditions incorporated therein.
  - b. The application meets applicable standards of Section 6.3.
  - c. The application is in conformance with the insurance and security requirements set forth in Subsection 6.3.3 and Subsection 6.3.4.
3. **Conditions.** The Gas Well Administrator shall not approve a Gas Well Permit until after the Operator has provided:
  - a. The security and insurance required by Subsections 6.3.3 and 6.3.4;
  - b. Payment of the required Road Damage Remediation Fee that will obligate the Operator to repair damage excluding ordinary wear and tear, if any, to public streets, including but not limited to, damage to bridges caused by the Operator or by the Operator's employees, agents, contractors, subcontractors or representatives in the performance of any activity authorized by or contemplated by the approved Gas Well Permit.
4. An Operator may obtain a conditional Gas Well Permit contingent upon the submittal of an As-Built Gas Well Development Site Plan that conforms to the approved Gas Well Development Site Plan. The Gas Well Administrator shall review the As-Built submittal within three business days. Upon the written determination of the Gas Well Administrator that the As-Built Gas Well Development Site Plan conforms to the legal description as approved in the Gas Well Development Site Plan, the Operator may commence Drilling Activities.
5. **Contents of Permit.** Each Gas Well Permit issued by the Gas Well Administrator shall:
  - a. Identify the name of each well and its Operator;
  - b. Specify the date on which the Gas Well Administrator issued each Permit;
  - c. Specify the Permit expiration date;
  - d. Specify that if drilling is commenced before the Permit expires, the Permit shall continue until the well covered by the Permit is abandoned and the site restored;
  - e. Incorporate, by reference, the insurance and security requirements set forth in Subsection 6.3.3 and Subsection 6.3.4;
  - f. Incorporate, by reference, the requirement for periodic reports set forth in Subsection 6.3.6 and for Notice of Activities set forth in Subsection 6.3.7;
  - g. Incorporate the full text of the release of liability provisions set forth in Subsection 6.3.3A;
  - h. Incorporate, by reference, the conditions of the applicable Watershed Protection Permit to which the Gas Well Permit is subject;
  - i. Incorporate, by reference, the information contained in the Permit application;
  - j. Include the statement that all Drilling and Production Activities are subject to the applicable rules and regulations of the RRC, including the applicable "Field Rules," TCEQ and United States Army Corps of Engineers;

- k. Contain the name, address, and phone number of the person designated to receive notices from the City;
- l. Contain the name, address and phone number of the person designated to receive service of process from the City, which person shall be a resident of Texas that can be served in person or by registered or certified mail;
- m. Incorporate the well's RRC permit number and the American Petroleum Institute (API) number;
- n. Incorporate, by reference all other applicable provisions set forth in the DDC;
- o. Contain a notarized statement signed by the Operator, or designee, that the information is, to the best knowledge and belief of the Operator or designee, true and correct;
- p. Contain a statement that the Operator acknowledges and voluntarily consents to be inspected by the City to ensure compliance with this section, Section 6.3: Gas Well Drilling and Production, and applicable provisions of the DDC, and the Municipal Code of Ordinances; and
- q. If the Drilling and Production Site has not been constructed, an As-Built Gas Well Development Site Plan must be approved prior to commencement of Drilling Activities.

**6. Denial of Permit.**

- a. The decision of the Gas Well Administrator to deny an application for a Gas Well Permit shall be provided to the Operator in writing within 10 days after the decision, including an explanation of the basis for the decision.
- b. If an application for a Gas Well Permit is denied by the Gas Well Administrator, nothing herein contained shall prevent a new Gas Well Permit application from being re-submitted.

**D. Expiration of Gas Well Permit.**

- 1. A Gas Well Permit is valid for a period of one year and shall automatically expire, unless Initial Drilling Activities have commenced prior to such date.
- 2. If a Gas Well Permit has been issued by the City but Initial Drilling Activities have not commenced prior to the expiration date of the Permit, the Permit shall not be extended unless a special exception has been approved by the Board of Adjustment pursuant to Subsection 6.2.6; however, the Operator may reapply for a new Permit, as long as the Gas Well Development Site Plan remains in effect.

- E. Transfer of Gas Well Permit.** A Gas Well Permit may be transferred by the Operator with the written consent of the City if the transfer is in writing signed by both parties, if the transferee agrees to be bound by the terms and conditions of the transferred Permit, if all information previously provided to the City as part of the application for the transferred Permit is updated to reflect any changes, and if the transferee provides the insurance and security required by Subsection 6.3.3 and Subsection 6.3.4. The insurance and security provided by the transferor shall be released if a copy of the written transfer is provided to the City and all other requirements provided in this subsection are satisfied. The transfer shall not relieve the transferor from any liability to the City arising out of any activities conducted prior to the transfer.

**6.2.6 - Relief Measures.**

**A. Waiver Procedures for Drilling and Production Site Setback Reductions.**

- 1. **Property Owner Waivers for Drilling and Production Sites.** An Operator may obtain a reduction in the Drilling and Production Site Setback requirements of Subsection 6.2.2 by procuring written, notarized waivers from 100 percent of the owners of Protected Uses and the owners of lots in Residential subdivisions that are within the required setback.
  - a. Property owner waivers must be in a format approved by the City and shall include an aerial exhibit

attached clearly depicting the boundaries of the proposed Drilling and Production Site where well development could occur and the closest dimension to each Protected Use and each lot in the Residential Subdivision for which the waiver is being requested. Signatures are required on both the form and exhibit.

- b. Written notarized waivers granted by all the property owners within the prescribed setback distance from a Drilling and Production Site must be filed, at the expense of the Operator, in the Denton County records. All waivers must identify the property address, block and lot number, subdivision name and plat volume and page number. Copies of filed property owner waivers must be submitted with the filing of a complete application for a Gas Well Development Site Plan.
  - c. If the Operator fails to obtain written waivers from all property owners within the prescribed Drilling and Production Site Setback, the Operator may submit a request for a variance to the Board of Adjustment pursuant to Subsection 6.2.6B, or a request for an administrative variance, pursuant to Subsection 6.2.6C.
2. **Effect of Surface Development on Drilling and Production Site Setback Waivers.** After the effective date of this amendatory ordinance, when a property owner constructs a Protected Use or develops a Residential Subdivision within the Drilling and Production Site Setback for an Existing Site prescribed by Subsection 6.2.2C, such property owner shall be deemed to have granted the Operator a waiver in satisfaction of paragraph (1) requirements above for that property containing the Protected Use or constituting the Residential Subdivision. This waiver shall apply to all successor property owners. This does not relieve an Operator from obtaining waiver(s) from all other property owners located within the Drilling and Production Site Setback for the Existing Site.
3. The notice provisions of Subsection 6.3.7B apply to procedures under this subsection (A).
- B. Board of Adjustment Proceedings.**
1. The Board of Adjustment shall hear and decide appeals of orders, decisions, or determinations made by the Gas Well Administrator relative to the application and interpretation of this Section 6.2: Gas Well Development, except for vested rights appeals and matters described in paragraph 6.3.8F: Permit Suspension or Revocation, furthermore, the Board of Adjustment shall hear and decide requests for variances to the provisions of this Section 6.2: Gas Well Development, under the relevant criteria set forth below. The Board may also grant special exceptions extending the expiration date of a Gas Well Development Site Plan or a Gas Well Permit for a period not to exceed one year. Any Operator, surface owner, or affected property owner who desires to appeal the decision of the Gas Well Administrator or Director, request a variance, or request a special exception may file the appeal or request to the Board of Adjustment pursuant to Subsection 2.8.1: Variance of the DDC. Appeal fees shall be required for every appeal, variance, or special exception request. For purposes of this Section, the Gas Well Administrator has designated authority from the Director of Planning to make final orders, decisions, or determinations.
    - a. Standard of review for appeals. The members of the Board of Adjustment shall have and exercise the authority to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the approval or denial of a Gas Well Development Site Plan or Gas Well Permit. The Board of Adjustment may reverse or affirm, in whole or in part, or modify the Gas Well Administrator's order, requirement, decision or determination from which an appeal is taken.
    - b. General criteria for review of variances. In deciding requests for variances, the Board of Adjustment shall consider, where applicable, the following relevant criteria:
      - i. Whether there are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions and location that do not apply

- generally to other property in the vicinity;
- ii. Whether a variance is necessary to permit the applicant the same rights in the use of his property that are presently enjoyed by other similarly situated properties, but which rights are denied to the property on which the application is made;
  - iii. Whether the granting of the variance on the specific property will adversely affect any other feature of the comprehensive master plan of the City;
  - iv. Whether the variance, if granted, will be of no material detriment to the public welfare or injury to the use, enjoyment, or value of property in the vicinity;
  - v. Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the vicinity considering the particular location and the character of the improvements located there; and
  - vi. Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the Gas Well Development Site Plan or Gas Well Permit conditions to be imposed.

## 2. Standard of Review for Setback Variances.

- a. In deciding requests for variances from Drilling and Production Site Setbacks, the Board of Adjustment shall consider, where applicable and in addition to the general criteria stated in paragraph (1.b) above, the following relevant criteria:
  - i. Whether there is reasonable access for City fire personnel and firefighting equipment, including the ability to safely evacuate potentially affected residents.
  - ii. The extent to which the Operator and the surface owner(s) are in agreement on a plan for development of the property, have provided for adequate access and traffic circulation, and taken measures to promote compatibility of gas well development and other surface development of the property.
  - iii. For a request by an Operator to reduce Drilling and Production Site Setbacks, whether the impact upon adjacent property and the general public from gas well development under the requested setback will be substantially increased, considering:
    - a. The reasonable use of the mineral estate by the mineral estate owner(s) to explore, develop, and produce the minerals;
    - b. The availability of alternative drilling sites; and
    - c. The number of owners of Protected Uses or lots in a Residential Subdivision who are willing to waive the Drilling and Production Site Setback as requested or in modified form.
- b. In deciding the request for a variance from setback requirements, the Board may approve the request, as granted, modify the request or deny the request. In granting a variance for reduction of a Drilling and Production Site Setback, the Board may impose such conditions as are necessary to mitigate the impacts of the reduced setbacks and to preserve the public health and safety, including but not limited to, the enhanced mitigation standards contained in Subsection 6.3.2G.
- c. In deciding requests by a property owner or developer of a Protected Use or residential lot for a variance from Reverse Setbacks that do not meet the requirements for administrative alternative site design approval as described in Subsection 6.2.6C, the Board of Adjustment shall consider, where applicable and in addition to, the general criteria stated in Section 6.2.6B.1.b, the following relevant criteria:
  - i. The reasonable use of the surface of the subject property by the property owner or developer;

- ii. The availability of alternative site designs or subdivision layouts; and
  - iii. Compatibility with any existing Gas Well Development Site Plan or Gas Well Plat.
- d. In no event shall the Board of Adjustment reduce the Minimum Setbacks set forth in Subsection 6.2.2.
3. The Board of Adjustment shall determine whether to grant an extension of the expiration for a Gas Well Development Site Plan or Gas Well Permit based upon whether there are circumstances reasonably beyond the control of the Operator, including any delay on the part of the City in issuing subsequent permits, that justify an extension of the Site Plan or Permits, in order that the Operator may enjoy the same rights in the use of the property that are presently enjoyed by other similarly situated properties, but which rights are denied to the property for which the Site Plan or Permits have expired or are suspended.
  4. Any action under this subsection B shall require a three-fourths majority vote of the entire Board of Adjustment.
  5. Any Operator or other person aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, stating that such decision is illegal, in whole or in part, and specifying the grounds of the alleged illegality. Such petition shall be presented within 10 days after the date on which the decision of the Board of Adjustment was rendered and not thereafter, and judicial review of the petition shall be pursuant to TLGC, § 211.011, as amended.

**C. Administrative Relief Procedures.**

1. **Drilling and Production Site Setbacks.** An Operator may request administrative relief to the Drilling and Production Site Setback requirements of Subsection 6.2.2 for a New or Existing Site from the Gas Well Administrator under the following circumstances:
  - a. The Operator has at least one Existing Site on the property under mineral lease for the property or for contiguous leased property;
  - b. Such Existing Site(s) is located closer to Protected Uses or Residential Subdivisions than is the proposed Drilling and Production Site to such uses; and
  - c. The Operator agrees in a written instrument capable of recording to limit gas well development on such Existing Site(s) to existing Gas Well Drilling and Production Activities.

For each Existing Site so restricted, the Gas Well Administrator may reduce the Drilling and Production Site Setback by an amount calculated as follows: 50 percent of the difference between the Drilling and Production Site Setback and the Minimum Setback. As a condition of granting the administrative variance, the Gas Well Administrator shall require that the Operator's written agreement be recorded in the Denton County records at the Operator's expense.

2. **Reverse Gas Well Setbacks.** The Director may grant administrative relief from the Reverse Setback requirements of Section 6.2.2 upon application of the owner of a Protected Use or residential lot where (i) the property owner has utilized all applicable options for alternative site designs and DDC flexibility provisions to maximize buildable area and (ii) fifty percent (50%) or more of the subject property is encumbered by the Reverse Gas Well Setback.

In applying alternative site designs to a subject property under this section:

- i. For a residential subdivision, the standards for Cluster Developments in Subsection 8.3.4 may be applied without having to meet the minimum parcel size of 5 acres as stated in 8.3.4B.2 and without requiring approval of a Planned Development (PD) in accordance with 8.3.4C.1. Plats for cluster subdivisions shall



require approval by the Planning and Zoning Commission in accordance with the applicable procedures in Subchapter 2.

- ii. For all other Protected Uses, the applicable maximum building height and maximum building coverage may be increased by 20%, and the minimum unit size and minimum required number of parking spaces may be reduced by 20%.

D. **Vested Rights Appeals.** Any person who claims that he has obtained a vested right pursuant to TLGC, Chapter 245, or other applicable vesting law under prior gas well development regulations from the requirements of Section 6.2: Gas Well Development and Section 6.3: Gas Well Drilling and Production, as they pertain to gas well development, may request a determination pursuant to Subsection 2.5.6: Vested Rights. For proposed gas wells to be located inside the City limits, the petitioner shall include a statement of the reasons why the regulations contained in Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development, as they pertain to Gas Well Development are not exempt pursuant to TLGC section 245.004.

(Ord. No. DCA19-0009c, § 2(Exh. B), 11-19-2010; Ord. No. DCA19-0009e, § 2(Exh. B), 1-28-2020)

### 6.3 - Gas Well Drilling and Production

#### 6.3.1 - Definitions.

For the purpose of this Subchapter 6: Gas Wells, certain words and terms shall be defined and interpreted as follows. Interpretations of meaning shall be made by the Director of Planning and Development based on the provisions of Subsection 2.8.6, Interpretations. Appeals of staff interpretations of this Subchapter shall be heard as a Board of Adjustment proceeding in accordance with Subsection 2.8.1: Variance.

**As-Built Gas Well Development Site Plan:** A Gas Well Development Site Plan depicting the boundaries of the subject Drilling and Production Site as constructed.

**Completion Operations:** The term used to describe the events and equipment necessary to bring a wellbore into production once drilling operations have been concluded, including, but not limited to, well stimulation activities, the assembly of downhole tubular, or installing equipment in the well to allow a safe and controlled flow of petroleum or hydro carbons from the well. This definition describes all events performed and equipment used for completion of a well, whether performed the first time on a well or as subsequent treatments to an existing well.

**Compressor:** A device that raises the pressure of natural gas.

**Contaminant:** Any substance capable of contaminating a non-related homogeneous material, fluid, gas or environment.

**Cure Period:** The amount of time granted to remedy a violation of this Chapter.

**Daytime:** The hours between 7:00 a.m. and 7:00 p.m. CST on any given day.

**Drilling:** Term used to typically describe the means by which the earth is bored to create a pathway to formations containing hydrocarbons to allow for their production to the surface. It can employ various types of mobilized drilling equipment to create a wellbore while incorporating drilling fluids to cool the bit, to condition the hole, to remove drilled cuttings and to maintain an overbalanced pressure gradient against the formation that may contain inherently pressurized well fluids.

**Drilling Activities:** Those activities commonly performed at a Drilling and Production Site necessary or incidental to getting hydrocarbons to market; including but not limited to a well redrill or any hydraulic refracturing, initial drilling and completion operations, but not including Production Activities.

**Drilling and Production Site:** The area dedicated to all authorized above ground gas well drilling and production activities related to an oil and gas operation on an improved area and containing all wells, structures, dehydrators, parking areas, security cameras, lighting, tanks, tank battery (or any other tank grouping area), drilling rigs, separators, lift compressors, perimeter walls, utilities, and all other features or objects used during and after gas well drilling or production activities, as depicted on a Gas Well Development Plat or Gas Well Development Site Plan, but excluding pits, gathering and transmission lines and compressor stations. Drilling and Production Site includes the terms gas well park, gas well pad site, pad site, and drilling and production area.

**Drilling and Production Site Setback:** The distance that the site must be separated by an Operator from an existing Protected Use or from a Residential Subdivision.

**Existing Drilling and Production Site or Existing Site:** A Drilling and Production Site that was specifically depicted and approved on a Gas Well Development Site Plan, or a gas well development plat, prior to August 18, 2015, and on which one or more gas wells exist. Where the boundaries of such site have not been defined by metes and bounds or lot/block description on an approved gas well development plat, this term describes the improved surface area incorporating all facilities and appurtenances currently contained on the developed Drilling and Production Site. An Existing Site also includes a Drilling and Production Site designated in a MPC or PD District, and approved via a site-specific authorization, whether or not one or more wells exist on the site, provided that the site-specific authorization includes a metes and bounds description or a metes and bounds description is provided within three months of this amendatory ordinance.

**Existing Gas Well Development Site Plan:** A Gas Well Development Site Plan that was approved by the City after August 4, 2010 that established setback boundaries and identified a specific number of wells to be constructed on the subject Drilling and Production Site.

**Exploration:** Geologic or geophysical activities, including, but not limited to surveying and seismic exploration, related to the search for oil, gas, or other sub-surface hydrocarbons.

**Floodplain:** See Subchapter 9: Definitions, for definition.

**Flood Fringe:** See Subchapter 9: Definitions, for definition.

**Floodway:** See Subchapter 9: Definitions, for definition.

**Flowback:** The process of allowing fluids to flow from a well following a treatment, either in preparation for a subsequent phase of treatment or in preparation for cleanup and returning the well to production. The flowback period occurs as a stage within Completion Operations.

**Freshwater Well:** A private water well used by a Protected Use.

**Gas:** A naturally-occurring gaseous substance, including substances primarily composed of methane and other light, gaseous hydrocarbons.

**Gas Processing Plant:** A facility, separate and distinct from a Drilling and Production Site, engaged in the extraction of natural gas liquids from field natural gas, or the fractionation of mixed natural gas liquids to natural gas products, or a combination of both.

**Gas Well:** A hole or bore drilled to any horizon, formation, or strata for the purpose of producing or storing natural gas, or other liquid hydrocarbons.

**Gas Well Administrator:** The administrative official designated by the City of Denton that is responsible for evaluating the impacts of exploration, development, and production of oil and/or gas wells. Responsibilities include environmentally sensitive areas review, erosion control inspection, monitoring, and evaluating compliance with federal, state, and local regulations.

**Gas Well Development:** Any drilling activity or production activity performed on an approved Drilling and Production Site.

**Gas Well Development Site Plan:** The initial approval authorizing wells to be drilled at one Drilling and Production Site that sets the boundaries used for setback measurements and contains all the information required by this Subchapter 6: Gas Wells.

**Gas Well Drilling and Production Activities:** (A/K/A drilling and production activity(ies), drilling and production.) As used in this Chapter, gas well drilling and production activities encompasses all three of the following: Initial Drilling Activities, Completion Operations and Production Activities.

**Gas Well Permit:** A written license that is granted by the City of Denton pursuant to Subsection 6.2.5: Gas Well Permits. A Gas Well Permit is required for each separate well. The term "gas well permit" in lower case letters refers to a permit approved by the City of Denton under gas well regulations in effect prior to the effective date of this amendatory ordinance, as the context may indicate, which authorized drilling and production activities on a gas well existing on such effective date.

**Habitable Structure:** Structures suitable for human habitation or occupation for which a Certificate of Occupancy or Final Inspection Certificate is required, including but not limited to, public buildings and enclosed buildings used for commercial or industrial purposes. A habitable structure shall not include accessory buildings, barns, garages and sheds.

**Hazardous Materials Management Plan:** The hazardous materials management plan and hazardous materials inventory statements required by the Fire Code.

**Hydraulic Fracturing:** A well stimulant treatment that involves the process of directing pressurized fluids containing any combination of water, propellant, and any added chemicals to penetrate tight formations, such as shale or coal formations, that subsequently require high rate, extended flowback to expel fracture fluids and solids during completions. Hydraulic Fracturing occurs as a stage within Completion Operations.

**Initial Drilling Activities:** The portion of the Drilling Activities that includes the means by which a portion of the earth is originally bored in order to create a pathway to formations containing hydrocarbons to allow for their production to the surface.

**Lightning Protection System:** An integrated system designed to ground metal equipment on a rig, well pad or at a tank battery location for protection against electrical shock, fire or explosion due to lightning.

**Liner:** In pit construction, a liner is an impervious material, either synthetic or natural, that is used to line the interior of a pit to prevent pit fluids from leaking or leaching into the environment.

**Minimum Reverse Setback:** The minimum distance a Protected Use or residential lot must be separated by a surface owner from an approved Drilling and Production Site or from a gas well within such site after administrative relief or a variance is granted to reduce the reverse setback requirement.

**Minimum Setback:** The minimum distance a Drilling and Production Site must be separated by an Operator from a Protected Use or from a Residential Subdivision after a waiver or variance is granted to reduce the setback requirement.

**New Drilling and Production Site or New Site:** A proposed Drilling and Production Site that is other than an Existing Site.

**Operator:** The person(s) in charge and in control of drilling, maintaining, operating, pumping, or controlling any well or pipeline including without limitation, a unit Operator.

**Plugging and Abandonment:** Includes the plugging of the well, abandoned, orphaned or otherwise, in accordance with RRC Statewide Rule 3.14 or its successor regulation and restoration of the Drilling and Production Site as required by the RRC.

**Production Activities (A/K/A Production):** The phase that occurs after Exploration, Initial Drilling Activities and Completion Operations and during which time hydrocarbons are stored or drained from an underground reservoir involving operations performed on a Drilling and Production Site, excluding those operations and facilities as defined and regulated by the Pipeline Safety Act of 1994, 49 U.S.C. §§ 60101—60137.

**Protected Use:** Any dwelling, church, public park, public library, hospital, pre-kindergarten, kindergarten or elementary, middle or high school, public pool, public transit center, senior center, public recreation center, hotel or motel.

**Railroad Commission (RRC):** The Railroad Commission of Texas.

**Redrill:** Any work to an existing well bore or an existing surface hole location after Initial Drilling Activities that requires a new permit from the Texas Railroad Commission. This definition includes, but is not limited to, drilling into a new horizon or drilling multiple directionals from the same surface hole location or using the same vertical wellbore.

**Residential Subdivision:** A subdivision designated for residential use for two or more dwellings.

**Reverse Setback:** The distance that a Protected Use or residential lot must be separated by a surface owner from an approved Drilling and Production Site or from a gas well within such site.

**Site Access Road:** The route depicted and approved on the Gas Well Development Site Plan or Gas Well Development Plat that identifies the ingress and egress point used to access the Drilling and Production Site from an existing City, County, or State maintained roadway.

**Site Preparation:** To ready a Drilling and Protection Site for Initial Drilling Activities by installing erosion and sediment control practices, performing clearing and grading activities of the Drilling and Production Site or Site Access Road.

**Site-specific Authorization:** The prior approval by ordinance of the City Council, of one or more specifically located and defined gas well site locations, subject to further site design, development, regulatory and permitting requirements, as set forth in this DDC or as specified within the site approval ordinance (or both), as applicable.

**Spud:** The start of the well drilling process by removing rock, dirt, or other sedimentary material with the drill bit.

**Tank:** Any storage vessel that contains an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water; is constructed primarily of non-earthen materials (such as wood, concrete, metal, fiberglass, steel or plastic) which provide structural support; is not skid-mounted or permanently attached to something that is mobile; and is intended to be located at the Drilling and Production Site for more than 90 consecutive days.

**Well Stimulation:** A treatment performed to restore or enhance the productivity of a well by opening new channels in the rock for the oil and gas to flow through; including, but not limited to fracturing, hydraulic or otherwise, injection of acid, or the use of charges to break up the rock.

**Workover Operation:** Work performed on a well after its initial completion to secure production where there has been none, to restore production that has ceased, or to enhance or increase production within the zone originally completed or to repair the well. Workover operations do not include redrills or completion activities.

(Ord. No. DCA19-0009e, § 2(Exh. B), 1-28-2020)

### 6.3.2 - Standards for Gas Well Drilling and Production.

The drilling and production of gas wells within the City limits shall be subject to the following standards:

#### A. Prohibited or Restricted Locations, Uses and Activities.

1. No gas well Drilling and Production Sites shall be allowed on slopes greater than 10 percent.
2. No Drilling and Production Site shall be located within any of the streets or alleys of the City or streets or alleys shown by the current Comprehensive Plan of the City of Denton. No street shall be blocked or encumbered or closed due to any exploration, drilling, or production activities unless prior consent is obtained from the City Manager, and then only temporarily.
3. Nothing in this Section is intended to prevent an Operator from drilling directionally to reach a target or bottom hole that is located beneath a prohibited or restricted site. Gas wells may have a target location or bottom-hole location that is under the floodway, an ESA or within 1,200 feet of the flood pool elevation of Lake Ray Roberts or Lake Lewisville when the gas well is drilled directionally from a location outside such areas.
4. No refining process, or any process for the extraction of products from gas, shall be carried on at a Drilling and Production Site, except that a dehydrator and separator, in accordance with federal and/or state law, may be maintained on a Drilling and Production Site for the separation of liquids from gas. Any such dehydrator or separator may serve more than one well. Gas Processing Facilities shall require a Specific Use Permit.
5. No person shall place, deposit, or discharge (or cause or allow to be placed, deposited, or discharged) any oil, naphtha, petroleum, diesel, gasoline, asphalt, tar, hydrocarbon substance, or any refuse, including wastewater or brine, from any gas operation or the contents of any container used in connection with any gas operation in, into, or upon any public right-of-way, storm drain, ditch or sewer, sanitary drain or sewer, any body of water, or any private property within the corporate limits of the City of Denton.
6. No Operator shall excavate or construct any lines for the conveyance of fuel, water, or minerals on, under, or through the streets or alleys or other land of the City without an easement or right-of-way license from the City, at a price to be agreed upon, and then only in strict compliance with this Subchapter 6: Gas Wells, with

other ordinances of the City, and with the specifications established by the Engineering Department.

7. The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any public street or leaving upon any public street any earth or other materials is prohibited. Construction activities or deposition of any materials or objects creating an obstruction within public rights-of-way or easements are prohibited unless the Operator has first obtained written approval from the Engineering Department and, if applicable, has filed a right-of-way use agreement, and then only if in compliance with specifications established by the Department.

**B. Site Layout, Design, and Compatibility Requirements.** The following requirements apply only within City limits:

1. **Entrance Gate.** An entrance gate to the Drilling and Production Site shall be required and a sign identifying the entrance to the Drilling and Production Site or operation site shall be light reflective.
2. **Fencing, Screening and Landscaping.**
  - a. Fencing, buffering, landscaping and screening shall be required on Drilling and Production Sites. All required fencing, landscaping, buffering and screening must be installed in accordance with the approved Landscape Plan within 180 days after initial drilling of the first approved well. Landscaping and screening shall also be required for Compressors. Landscaping and screening shall comply with the same requirements for Drilling and Production Sites as set forth in this Subchapter 6: Gas Wells, and in the DDC. Should the Operator decide to fence in gathering and transmission lines or compressor stations, or both, Operator shall install the fencing in accordance with Subchapter 7: Development Standards.
    - i. All Drilling and Production Sites in Residential Districts shall be screened with an opaque decorative masonry fence that shall be no less than eight feet in height.
    - ii. In lieu of this requirement, an alternative fence that is compatible with the area surrounding the Drilling and Production Site may be approved by the Director of Planning and Development.
    - iii. Required fencing must be located within 300 feet of all equipment necessitating fencing requirements under this Subchapter 6: Gas Wells.
  - b. Fencing in all other districts shall be screened with a fence at least eight feet in height that is compatible with the area surrounding the Drilling and Production Site. Required fencing must be located within 300 feet of all equipment necessitating fencing requirements under this Subchapter 6: Gas Wells.
3. **Signage.**
  - a. A sign shall be immediately and prominently displayed on each side of the fence that surrounds the Drilling and Production Site. Such sign shall be made of durable material and shall be maintained in good condition. The sign shall have a surface area of not less than 2½ feet by 2½ feet or more than 4 by 4 feet and shall be lettered in minimum four-inch lettering and shall include the following information:

"THIS IS A GAS WELL DRILLING AND PRODUCTION SITE. THIS SITE MAY BE THE SUBJECT OF FURTHER DRILLING AND PRODUCTION AND/OR HYDRAULIC FRACTURING."
  - b. Additional signs shall be posted on each Drilling and Production Site which contain the following information:
    - i. The Well Identification Number(s), American Petroleum Institute well number(s) and any other well designation(s) required by the RRC;
    - ii. Name of Operator;
    - iii. Operator's telephone number which will be answered 24 hours a day by a live, in-person, non-automated response system so as to ensure that in cases of emergency the Operator is made

- immediately aware;
  - iv. Operator's business mailing address;
  - v. Address of Drilling and Production Site;
  - vi. The number for emergency services (911);
  - vii. The telephone number of the City's Gas Well Division for citizens to call with questions, concerns or complaints;
  - viii. The telephone number of the TCEQ's Regional Office where air quality complaints may be reported; and
  - ix. Any additional information required by RRC.
- c. A permanent weatherproof sign shall be posted on each Drilling and Production Site reading "DANGER NO SMOKING ALLOWED," in both English and Spanish, at the entrance of each Drilling and Production Site or in any other location approved or designated by the Fire Marshal. Sign lettering shall be four inches in height and shall be red on white background or white on red background. Each sign shall include the emergency notification numbers of the City Fire Department and the Operator, well and lease designations required by the RRC.
4. **Painting.** All installed, mounted, and/or permanent equipment on Drilling and Production Sites shall be coated, painted, and maintained at all times, including the wellhead, gas processing units, pumping units, storage tanks, above-ground pipeline appurtenances, buildings, and structures, in accordance with applicable guidelines adopted by The Society for Protective Coatings (SSPC). In addition, the following standards are applicable:
- a. Protective coatings and paints shall comply with any applicable State or City requirements. In absence of any such requirement, protective coatings and paints shall be of a neutral color that is compatible with the surrounding environment.
  - b. All exposed surfaces of the identified equipment must be coated and painted, and free from rust, blisters, stains, or other defects.
5. **Electric Lines.** All electric lines to permanent production facilities shall be located in a manner compatible to those already installed in the surrounding areas or subdivision.
6. **Lift Compressor Location.** Any lift compressor which is installed within an approved Drilling and Production Site shall be located at least 24 feet from the outer boundary of the site.
7. **Storage Tanks and Separators.**
- a. An Operator is allowed to construct, use, and operate such storage equipment and separation equipment as shown on the approved Gas Well Development Site Plan, except that permanent storage equipment and separation equipment may not exceed eight (8) feet in height.
  - b. The use of centralized tank batteries is permitted if shown and approved by the applicable Gas Well Development Site Plan.
8. **Trash Removal.** Any rubbish or debris that might constitute a fire hazard shall be promptly removed from the Drilling and Production Site.
9. **Debris.** The Drilling and Production Site and site access road shall at all times be kept free of debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other waste material.
- C. **Site Development Standards.**
- 1. **Water Conservation Plan.** In cases where the City activates its drought contingency plan, each Operator must

submit to the City a water conservation plan for uses of water. The plan must provide information in response to each of the following elements:

- a. A description of the use of the water in the production process, including how the water is diverted and transported from the source(s) of supply, how the water is utilized in the production process, and the estimated quantity of water consumed in the production process and therefore unavailable for reuse, discharge, or other means of disposal;
  - b. If long-term, five to 10 years, water storage is anticipated, quantified five-year and 10-year targets for water savings and the basis for the development of such goals;
  - c. A description of the device(s) and/or method(s) within an accuracy of plus or minus five percent to be used in order to measure and account for the amount of water diverted from the source of supply;
  - d. Leak-detection, repair, and accounting for water loss in the water distribution system;
  - e. Application of state-of-the-art equipment and/or process modifications to improve water use efficiency; and
  - f. Any other water conservation practice, method, or technique which the user shows to be appropriate for achieving the stated goal or goals of the water conservation plan.
2. **Erosion and Sediment Controls.** Erosion and sediment control practices shall be conducted for all gas wells. The Operator shall comply with the Erosion and Sediment Control Plan as approved by the City.
  3. **Site Access Restriction.** Access to a Drilling and Production Site shall not be taken from Neighborhood Streets.
- D. **Operations and Equipment Standards.** The following requirements apply only within City limits:
1. **Compliance with Federal and State Laws, Rules and Regulations.** The Operator shall at all times comply with the applicable federal and state laws, rules and regulations, and Field Rules, including but not limited to those addressing the following subjects:
    - a. Vapor recovery equipment;
    - b. Venting and flaring;
    - c. Soil sampling;
    - d. Pit design and use;
    - e. Hydraulic fracturing;
    - f. Plugging and abandonment of gas wells;
    - g. Reclamation of Drilling and Production Sites;
    - h. U.S. Army Corps of Engineers setback requirements from water bodies; and
    - i. Surface casing procedures.
  2. **Time of Fracturing.** Fracturing operations shall be scheduled to occur during daytime unless the Operator has notified the Gas Well Administrator that fracturing will occur before or after daytime to meet safety requirements.
  3. **Clean-up After Completion.** After the well has been completed the Operator shall clean and repair all damage to public property caused by such operations within 30 days.
  4. **Plugged and Abandoned Wells.** All wells shall be plugged and abandoned in accordance with the rules of the RRC. In addition, the Operator shall:
    - a. Submit a copy of its RRC Form W-3A (Notice of Intention to Plug and Abandon) and Form W-3 (Plugging



Record) to the Inspector within two business days of filing with the RRC;

- b. Notify the Gas Well Administrator of the intention to plug and abandon a well at least 24 hours prior to commencing activities; and
  - c. Submit to the Gas Well Administrator the surface hole locations in an acceptable Geographic Information System (GIS) format to accurately map and track well locations. The GIS data may be submitted with an initial Gas Well Permit application or with the annual administrative report. Submission of GIS location data is only required once.
- E. **Fire Safety and Emergency Response Requirements.** The provisions of this section shall apply within the corporate limits of the City of Denton.
1. **State, Federal, and Local Compliance.** The drilling and production of gas and accessing the Drilling and Production Site shall be in compliance with all state, federal and local safety regulations.
  2. **Gathering Lines.**
    - a. Each Operator shall place a pipeline marker sign at each point where a flow line or gathering line crosses a public street or road.
    - b. Each Operator shall place a warning sign for lines carrying H<sub>2</sub>S (Hydrogen Sulfide) gas as required by the Railroad Commission.
    - c. All flow lines and gathering lines within the corporate limits of the City (excluding City utility lines and franchise distribution systems) that are used to transport oil, gas, and/or water shall be limited to the maximum allowable operating pressure applicable to the pipes installed and shall be installed with at least the minimum cover or backfill specified by the American National Safety Institute Code, as amended.
  3. **Operating Pressure.** Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All wellheads shall contain an emergency shut off valve to the well distribution line.
  4. **Control Device.** Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank.
  5. **Storage Tanks.** Each storage tank requires a permit by the Fire Department and shall meet the requirements of the Fire Code.
  6. **Outdoor Storage Areas.** Outside storage areas shall be equipped with a secondary containment system designed to contain a spill from the largest individual vessel. If the area is open to rainfall, secondary containment shall be designed to include the volume of a 24-hour rainfall as determined by a 25-year storm and provisions shall be made to drain accumulations of ground water and rainfall.
  7. **Lightning System.** Drilling and Production Sites shall be equipped with a lightning protection system, in accordance with the City's Fire Code and the National Fire Association's NFPA-780. In addition, tank battery facilities shall be equipped with a lightning arrestor system.
  8. **Remote Foam Line.** Drilling and Production Sites shall be equipped with a remote foam line that meets the requirements of NFPA-11.
  9. **Hazardous Materials Management Plan.** An Operator shall prepare and provide to the Fire Marshal a Hazardous Materials Management Plan. Any updates or changes to this plan shall be provided to the Fire Marshal within three business days of the change. All chemicals and/or hazardous materials shall be stored in such a manner as to prevent, contain, and facilitate rapid remediation and cleanup of any accidental spill, leak, or discharge of a hazardous material. Operator shall have all material safety data sheets (MSDSs) for all

hazardous materials on-site. All applicable federal and state regulatory requirements for the proper labeling of containers shall be followed. Appropriate pollution prevention actions shall be required and include, but are not limited to, chemical and materials raised from the ground (e.g., wooden pallets), bulk storage, installation and maintenance of secondary containment systems, and protection from stormwater and weather elements.

10. **Emergency Response Plan.** An Operator shall prepare and provide to the Fire Marshal an Emergency Response Plan which includes the following information: (i) a detailed site plan showing the location of the access road, all buildings and structures, well head, tank batteries, above ground pipe and underground transmission pipe; (ii) a list of all on-site safety features, equipment and its location; (iii) the name, address and a twenty-four-hour, in-person response, phone number of the Operator to be notified in case of emergency; and (iv) the name, phone number and address of the surface property owner. The Emergency Response Plan should describe the personnel, procedures and equipment that the Operator has available for responding to any irregular release or a threatened release of materials on the site. The Emergency Response Plan may be included in the Hazardous Materials Management Plan.
11. **Testing/Record Keeping.** Operator shall perform periodic testing to verify that all equipment is operating properly. Maintenance and testing shall be under the supervision of a responsible person who shall ensure that such maintenance and testing are conducted in accordance with the manufacture's specifications. Test and inspection records must be available to the Fire Marshal or Gas Well Administrator for review upon request.
12. **Access by Emergency Vehicles.** All Drilling and Production Sites will be designed to provide road access for emergency vehicles in accordance with the provisions of the Fire Code. All access roads for fire apparatus must be unobstructed and be at least 20 feet in width, or shall have a design determined by the Fire Marshall as functionally equivalent to this standard. In addition, all access roads shall have an all-weather surface as provided for in the Fire Code. All dead ends and turning radii shall meet adopted Fire Code standards.
13. **Pit Fencing.** For safety reasons, fencing shall be installed to restrict access to a reserve pit or other type of open pit containing a synthetic liner and used in gas well drilling operation at a Drilling and Production Site within the corporate limits of the City.
14. **Catchment Basins.** Drip pans, catchment basins and other secondary containment devices or oil absorbing materials shall be placed or installed underneath all tanks, containers, pumps, lubricating oil systems, engines, fuel and chemical storage tanks, system valves, connections, and any other areas or structures that could potentially leak, discharge, or otherwise spill hazardous or solid materials.
15. **Clean-up Operations.** After any spill, leak or discharge, the Operator shall remove or cause to be removed all contamination and associated waste materials. Clean-up operations shall begin immediately.
16. **Immediate Notification.** Upon the occurrence of a fire, blowout, release of hazardous materials, injury or other incident outside normal operating events, the Operator will immediately notify the Fire Department and a representative of the Operator will be on-site within 60 minutes to assist the City's Emergency Response Team and provide any information necessary regarding the site. The Operator shall also, at its own expense, contact and deploy any well containment specialists or other specialists necessary to contain and suppress the emergency situation.
17. **Storage.** No pit shall be used or maintained for storage of oil or oil products or oil field fluids, or for storage or disposal of oil and gas wastes.

**F. Nuisance Prevention and Impact Mitigation Standards.**

1. **Nuisances.** Adequate nuisance prevention measures shall be taken to prevent or control offensive odor,

fumes, dust and vibration. All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of gas and other hydrocarbon substances in urban areas. All equipment used shall be constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effects are minimized by the operations carried on at any drilling or production site or from anything incident thereto to avoid injury to or annoyance of persons living in the vicinity. The site or structures shall not be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

## 2. Sound Mitigation.

- a. A noise management plan, prepared by a professional qualified in the area of noise mitigation, and approved by the Gas Well Administrator, detailing how the equipment used in the drilling, completion, transportation or production of a well complies with the maximum permissible noise levels of this section will be submitted with the Gas Well Site Plan Application. The noise management plan must:
  - i. Identify operation noise impacts;
  - ii. Provide documentation establishing the ambient noise level prior to construction of any wellhead, compressor or compression facility; and
  - iii. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
    - a. Nature and proximity of adjacent development, location and type;
    - b. Seasonal and prevailing weather patterns, including wind directions;
    - c. Vegetative cover on or adjacent to the site; and
    - d. Topography.
  - iv. The Operator shall be responsible for verifying compliance with this section and the noise management plan after the installation of the noise mitigation equipment.
- b. No well shall be drilled, re-drilled or any equipment operated at any location within the City in such a manner so as to create any noise, including low-frequency outdoor noise levels, which causes the exterior noise level when measured at the Protected Use receiver's/receptor's property line or from the closest exterior point of the Protected Use structure or inside the Protected Use structure if access to the property is granted by the receiver/receptor, that:
  - i. Exceeds the ambient noise level by more than five decibels during daytime hours and more than three decibels during nighttime hours;
  - ii. Exceeds the ambient noise level by more than 10 decibels over the daytime average ambient noise level during fracturing operations during daytime hours;
  - iii. Exceeds the ambient noise level by more than three decibels during flowback operations during nighttime hours;
  - iv. Creates pure tones where one-third octave band sound-pressure level in the band with the tone exceeds the arithmetic average of the sound-pressure levels of two contiguous one-third octave bands by five dB for center frequencies of 500 Hertz and above, and by eight dB for center frequencies between 160 and 400 Hertz, and by 15 dB for center frequencies less than or equal to 125 Hertz.
- c. The Operator shall be responsible for establishing and reporting to the City a continuous 72-hour pre-

drilling ambient noise level prior to the issuance of a Gas Well Permit. The 72-hour time span shall include at least one 24-hour reading during either a Saturday or Sunday. The Operator shall use the prior established ambient noise level for the installation of any new noise generation equipment unless the Operator can demonstrate that the increase in the ambient noise level is not associated with drilling and production activities located either on or off-site.

- d. Adjustments to the noise standards as set forth above in subsections b(i), b(ii) and b(iii) of this section may be permitted intermittently in accordance with the following:

<b>Table 6.3-A: Adjustments to Noise Standards</b>	
<b>Permitted Increase (dBa)</b>	<b>Duration of Increase (minutes) [1]</b>
10	5
15	5
20	Less than one
<b>Notes:</b>	
[1] Cumulative minutes during any one hour.	

- e. All workover operations shall be restricted to daytime hours.
- f. The exterior noise level generated by the drilling, re-drilling or other operations of all gas wells located within the applicable Drilling and Production Site Setback as set forth in Subsection 6.2.2 shall be continuously monitored, to ensure compliance. The cost of such monitoring shall be borne by the Operator. If a complaint is received by either the Operator or the gas inspector from any Protected Use the Operator shall, within 24 hours of notice of the complaint, continuously monitor for a 72-hour period the exterior noise level generated by the drilling, re-drilling or other operations to ensure compliance. At the request of the Gas Well Administrator, the Operator shall monitor the exterior noise level at the source of the complaint.
- g. Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the Gas Well Administrator may be used to ensure compliance. All soundproofing shall comply with accepted industry standards.
- h. The sound level meter used in conducting noise evaluations shall meet the American National Standard Institute's Standard for sound meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.
- i. A citation may be immediately issued for failure to comply with the provisions of this section. However, if the Operator is in compliance with the approved noise management plan, and a violation still occurs, the Operator will be given 24 hours from notice of noncompliance to correct the violation from an identified source before a citation is issued. Additional extensions of the 24-hour period may be granted in the event that the source of the violation cannot be identified after reasonable diligence by the Operator.

3. **Lighting.** No Operator shall permit any lights located on any site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within 300 feet.

**G. Enhanced Nuisance Mitigation Standards.**

1. **Enhanced Standards for Operators.** When an Operator, either by waiver procedure or variance, receives a reduction to the set-back requirements of Subsection 6.2.2 for a Drilling and Production Site, the Operator shall comply with the following Enhanced Nuisance Mitigation Standards for that site:
  - a. **Sound Mitigation.** The Drilling and Production Site shall be surrounded on all four sides with sound wall noise barriers that comply with accepted industry standards and are at least 30 feet in height during all Drilling Activities and Completion Operations and shall be removed by the Operator no later than 60 days after concluding the respective activity. In the alternative, if the Operator's noise management plan provides equally effective sound mitigation to the Protected Uses within 1,000 feet of the Drilling and Production Site boundary, then the Operator may follow the recommendations set forth in the noise management plan. If the Operator chooses the alternative, the Operator shall provide notice of its intent together with its Notice of Activities as required by Subsection 6.3.7C.1.
  - b. **Production Monitoring.** Periodic evaluations will be conducted by the City for the Drilling and Production Site during production to determine if equipment is functioning as designed or may be producing fugitive emissions.
    - i. A third party contractor may be retained by the City to perform such inspections, and cost of services and charges assessed by the third party contractor shall be borne by the Operator. Any third party contractor shall act at the City's direction and report directly to the City, and shall have the same authority as the Gas Well Administrator for purposes of inspections under this Section.
    - ii. The City shall notify the Operator in writing, as well as to the state and federal regulatory agencies having jurisdictional authority, of any malfunctioning equipment producing fugitive emissions.
    - iii. Quarterly reporting of the monitoring results to the City's Gas Well Administrator is required with all laboratory data sheets, field logs, data summaries, and actions taken in the previous quarter.
    - iv. Upon showing documented compliance for a period of 12 months, the Operator shall thereafter employ best management practices to eliminate any emissions in violation of state and federal regulations.
  - c. An Operator is exempt from the inspection requirements included in Subsection b. above, and any associated fees, on any well site equipped with an equivalent automated system that meets the following requirements and is approved by the Inspector.
    - i. Any such alternative must include a screening for the presence of leaks, releases, or emissions, and other conditions that could identify potential malfunctions in the efficient operation of on-site equipment, such as the monitoring of line pressures and storage tank levels.
    - ii. The automated system alternative shall include:
      - a. A 24-hour remote alert system designed to notify appropriate personnel of excess storage tank levels or abnormal changes in line pressure; and
      - b. An emergency automated shutdown of the well(s) when monitoring indicates irregular storage tank levels and functioning of valves. All emergency situations shall be immediately reported to the City via 911.

- iii. If malfunctions are identified, the point of concern shall be noted and a repair confirmation provided to Administrator. The repair confirmation shall include a statement indicating that the component is working in accordance with manufacturer and regulatory requirements.
- iv. Data shall be compiled over the life of the well(s) and available to the Gas Well Administrator for review.

(Ord. No. DCA19-0009c, § 2(Exh. B), 11-19-2010)

### 6.3.3 - Indemnification and Insurance.

- A. **Indemnification and Express Negligence Provisions.** Each Gas Well Permit issued by the City shall include the following language:

OPERATOR DOES HEREBY EXPRESSLY RELEASE AND DISCHARGE ALL CLAIMS, DEMANDS, ACTIONS, JUDGMENTS, AND EXECUTIONS WHICH IT EVER HAD, OR NOW HAS OR MAY HAVE, OR ASSIGNS MAY HAVE, OR CLAIM TO HAVE, AGAINST THE CITY OF DENTON, AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, SUCCESSORS, ASSIGNS, SPONSORS, VOLUNTEERS, OR EMPLOYEES (COLLECTIVELY REFERRED TO AS THE "INDEMNIFIED PARTIES"), RELATING TO OR ARISING OUT OF BODILY INJURY, KNOWN OR UNKNOWN, AND INJURY TO PROPERTY, REAL OR PERSONAL, OR IN ANY WAY INCIDENTAL TO OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK PERFORMED BY THE OPERATOR UNDER A GAS WELL PERMIT. TO THE FULLEST EXTENT PERMITTED BY LAW, OPERATOR SHALL DEFEND, PROTECT, INDEMNIFY, AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM AND AGAINST EACH AND EVERY CLAIM, DEMAND, OR CAUSE OF ACTION AND ANY AND ALL LIABILITY, DAMAGES, OBLIGATIONS, JUDGMENTS, LOSSES, FINES, PENALTIES, COSTS, FEES, AND EXPENSES INCURRED IN DEFENSE OF THE INDEMNIFIED PARTIES, INCLUDING, WITHOUT LIMITATION, BODILY INJURY AND DEATH IN CONNECTION THEREWITH WHICH MAY BE MADE OR ASSERTED BY OPERATOR, ITS AGENTS, ASSIGNS, OR ANY THIRD PARTIES ON ACCOUNT OF, ARISING OUT OF, OR IN ANY WAY INCIDENTAL TO OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK PERFORMED BY THE OPERATOR UNDER A GAS WELL PERMIT. THE OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM ANY LIABILITIES OR DAMAGES SUFFERED AS A RESULT OF CLAIMS, DEMANDS, COSTS, OR JUDGMENTS AGAINST THE INDEMNIFIED PARTIES RELATING TO OR ARISING OUT OF THE ACTS OR OMISSIONS OF THE INDEMNIFIED PARTIES OCCURRING ON THE DRILLING AND PRODUCTION SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE GAS WELLS INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE SOLE NEGLIGENCE OF THE INDEMNIFIED PARTIES OCCURRING ON THE DRILLING AND PRODUCTION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE GAS WELLS. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE INDEMNIFIED PARTIES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE INDEMNIFIED PARTIES, WHETHER THAT NEGLIGENCE IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE. LIABILITY FOR THE SOLE NEGLIGENCE OF THE CITY IN THE COURSE AND SCOPE OF ITS DUTY TO INSPECT AND PERMIT THE GAS WELL IS LIMITED TO THE MAXIMUM AMOUNT OF RECOVERY UNDER THE TORT CLAIMS ACT.

- B. **Insurance.**

1. **General Requirements.**

- a. The Operator shall provide or cause to be provided the insurance described below for each well for which a Gas Well Permit is issued, and shall maintain such insurance until the well is abandoned and the site restored, except as otherwise required in this Section. The Operator may provide the required coverage

for multiple wells on a "blanket basis." Such coverage shall be approved by the Risk Manager for the City of Denton.

- b. Prior to issuance of the Gas Well Permit, the Operator shall furnish the City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth in this Section. A copy of the endorsements or other policy provisions adding the City as an additional insured to the insurance policies, endorsements providing the City 30 days' written notice of cancellation or material change in coverage, and all waivers of subrogation shall be attached to the certificate(s) of insurance. Upon request, certified copies of the insurance policies shall be furnished to the City. The City's acceptance of documents that do not reflect the required insurance, or the City's failure to request the required insurance documents, shall not constitute a waiver of the insurance requirements set forth in this Section.
  - c. In the event any insurance required by this Section is cancelled, the Gas Well Permit shall be suspended on the date of cancellation and the Operator's right to operate under the Gas Well Permit shall immediately cease until the Operator obtains the required insurance.
  - d. The Operator shall provide the City 30 days' written notice of any cancellation, non-renewal, or material change in policy terms or coverage, and the policies shall be endorsed to provide the City such notice.
  - e. All insurance policies shall be written by an insurer authorized to do business in Texas and with companies with a: VIII or better rating in accordance with the current Best's Key Rating Guide, or with such other financially sound insurance carriers approved by the City.
  - f. All insurance policies, with the exception of the workers compensation policy, shall be endorsed to name the City, its officials, employees, agents and volunteers as additional insureds on the policies. The additional insured coverage shall apply as primary insurance with respect to any other insurance or self-insurance programs maintained by the City, its officials, employees, agents and volunteers. A copy of each endorsement shall be provided to the City as evidence of coverage.
  - g. All insurance policies shall be endorsed with a waiver of subrogation in favor of the City, its officials, employees, agents and volunteers. A copy of each endorsement shall be provided to the City.
  - h. All insurance policies shall be written on an occurrence basis where commercially available.
  - i. During the term of the Gas Well Permit, the Operator shall report, in a timely manner, to the Gas Well Division any known loss or occurrence which has caused, or may in the future cause, bodily injury or property damage.
2. **Required Insurance Coverages.**
- a. **Commercial General Liability Insurance.** Operator shall maintain commercial general liability (CGL) insurance with a limit of not less than \$1,000,000 each occurrence with a \$2,000,000 aggregate. This insurance shall cover liability including, but not limited to, liability arising from premises, operations, blowout or explosion, products-completed operations, contractual liability, underground property damage, broad form property damage, and independent contractors. This insurance shall also include coverage for underground resources and equipment hazard damage. In addition to the additional insured requirements set forth above, the additional insured coverage provided to the City, its officials, employees, agents and volunteers shall include coverage for products-completed operations.
  - b. **Environmental Impairment (or Pollution Liability) Insurance.** Operator shall maintain environmental impairment or pollution liability insurance with a limit of not less than \$5,000,000. Such coverage shall not exclude damage to the lease site. If coverage is written on a claims-made basis, the Operator shall

maintain continuous coverage or purchase tail coverage for four years following the expiration or suspension of the Gas Well Permit, and the retroactive date(s) applicable to such coverage shall precede the date of issuance of the Gas Well Permit. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants. Where commercially available, Operator shall also maintain such coverage for gradual pollution incidents.

- c. **Automobile Liability Insurance.** Operator shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, non-owned, and hired autos).
- d. **Worker's Compensation Insurance.** Operator shall maintain workers compensation and employers liability insurance. The workers compensation limits shall be as required by statute and employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident and \$1,000,000 each employee for bodily injury by disease.
- e. **Excess (or Umbrella) Liability Insurance.** Operator shall maintain excess (or umbrella) liability insurance with a limit of not less than \$24,000,000 per occurrence with a \$24,000,000 aggregate. Such insurance shall be excess of the commercial general liability insurance, automobile liability insurance and employers liability insurance as specified above.
- f. **Control of Well Insurance.** Operator shall maintain control of well insurance with a limit of not less than \$5,000,000 per occurrence. The policy shall provide coverage for the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage. A \$500,000 sub-limit endorsement may be added for damage to property for which the Operator has care, custody, and control.

#### 6.3.4 - Security.

- A. **Generally.** Prior to the issuance of a Gas Well Permit the Operator shall provide the Gas Well Administrator with a security instrument in the form of a bond or an irrevocable letter of credit in accordance with Subsection 6.3.4B below. Evidence of the execution of a letter of credit shall be submitted to the Gas Well Administrator by submitting an original signed letter of credit from the banking institution, with a copy of the same provided to the City Secretary.
  - 1. **During Initial Drilling Activities.** An Operator drilling between one and five wells in the City at any time shall provide a blanket bond or letter of credit that meets the requirements with Subsection 6.3.4B below in the principal minimum amount of \$150,000. Such blanket bond or letter of credit shall be increased by \$50,000 for the sixth and each additional well being drilled in the City.
  - 2. **During Completion and Production Activities.** An Operator with wells that are producing and for which all drilling operations have ceased shall provide a blanket bond or letter of credit that meets the requirements with Subsection 6.3.4B below in the principal minimum amounts as follows:
    - a. Up to 75 wells: \$100,000;
    - b. Between 76 and 150 wells: \$150,000; and
    - c. More than 150 wells: \$250,000.
- B. **Drawing of a Bond or Letter of Credit.**
  - 1. The City shall be authorized to draw upon such bond or letter of credit to:
    - a. Recover any fines or penalties assessed under this Section 6.3: Gas Well Drilling and Production or



Section 6.2: Gas Well Development; or

- b. To pay the City for the cost of doing any work required to remedy any default by the Operator under any provision of this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development.
  2. If the City determines that a default has occurred in the performance of any requirement or condition imposed by this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development, a written notice shall be given to the Operator. Such notice shall specify the work to be done, the estimated cost and the period of time deemed to be reasonably necessary for the completion of such work. After receipt of such notice, the Operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the City 125 percent of the estimated cost of doing the work as set forth in the notice. In no event, however, shall the Cure Period be less than 10 days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the Operator's failure to provide periodic reports as required by this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development.
  3. The City shall be authorized to draw against the bond or letter of credit provided hereunder to recover such amount due from the Operator. Upon receipt of such moneys, the City shall proceed by such mode as deemed convenient and necessary to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the commission, such additional money may be demanded from the Operator as is necessary to properly plug and abandon the well and restore the drill site in conformity with the regulations of this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development. In the event the Operator does not cause the work to be performed and fails or refuses to pay over to the City the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the City against the applicable irrevocable letter of credit or bond the City may proceed to obtain compliance and abate the default by way of civil action against the Operator, or by criminal action against the Operator, or by both such methods.
- C. **Requirements for Bonds.** A bond shall be executed by a reliable bonding or insurance institution authorized to do business in Texas, acceptable to the City. The bond shall become effective on or before the date the Gas Well Permit is issued and shall remain in force and effect for at least a period of six months after the expiration of the Gas Well Permit term or until the well is plugged and abandoned and the site is restored, whichever occurs first. The Operator shall be listed as principal and the instrument shall run to the City, as obligee, and shall be conditioned that the Operator will comply with the terms and regulations of this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development, and the City. The original bond shall be submitted to the Gas Well Administrator with a copy of the same provided to the City Secretary.
- D. **Requirements for Letters of Credit.** A letter of credit shall be issued by a reliable bank authorized to do business in Texas and shall become effective on or before the date the Gas Well Permit is issued. The letter of credit shall remain in force and effect for at least a period of six months after the expiration of the Gas Well Permit term. If the letter of credit is for a time period less than the life of the well as required by this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development, the Operator must agree to either renew the letter of credit or replace the letter of credit with a bond in the amount required by this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development, on or before 60 days prior to the expiration date of the letter of credit. If the Operator fails to deliver to the City either the renewal letter of credit or replacement bond in the appropriate amount on or before 60 days prior to the expiration date of the letter of credit, the City may

draw the entire face amount of the attached letter of credit to be held by the City of Denton as security for Operator's performance of its obligations under this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development.

- E. **Abandoned Wells.** When the well or wells covered by said irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development, and in conformity with all regulations of the commission and notice to that effect has been received by the City, or upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

#### 6.3.5 - Inspection.

- A. In accordance with federal and state law, the Gas Well Administrator and Fire Marshal shall have the authority to enter and inspect any premises covered by the provisions of this Section 6.3: Gas Well Drilling and Production; and Section 6.2: Gas Well Development, and Gas Well Permit, to determine compliance with its provisions, and all applicable laws, rules, regulations, standards, or directives of any local, state or federal authority.
- B. Pursuant to inspection authority granted by this Subchapter 6: Gas Wells, the Fire Code, the Texas Clean Air Act, and the Texas Water Code, the Gas Well Administrator and the Fire Marshal shall conduct periodic inspections of all Drilling and Production Sites, Gas Wells and well-related equipment permitted under this Section 6.3: Gas Well Drilling and Production and Section 6.2: Gas Well Development.
- C. Inspections will also include an evaluation of the Operator's conformance with their Hazardous Materials Management Plan and other applicable requirements to their site. Any deviations from, or violations of, the Hazardous Materials Management Plan shall be referred to the Fire Marshal for further inspection and enforcement in accordance with the Fire Code.
- D. Inspection fees will be assessed for all inspections in an amount set by separate ordinance. Failure to timely remit payment for inspection fees is a violation of this Section 6.3: Gas Well Drilling and Production and Section 6.2: Gas Well Development; however, nothing herein shall be deemed to limit the City's remedies in equity or law in the collection of any past due fees.

#### 6.3.6 - Periodic Reports.

- A. The Operator shall notify the Gas Well Administrator and the Fire Marshal of any changes to the following information within one business day after the change occurs:
1. The name, address, and phone number of the Operator;
  2. The name, address, and twenty-four-hour, in-person response, phone number of the person(s) with supervisory authority on behalf of the Operator over the Drilling and Production Site;
  3. The name, address, and phone number of the person designated to receive notices from the City, which person shall be a resident of Texas that can be served in person or by registered or certified mail; and
  4. The Operator's Emergency Action Plan if required to file one pursuant to federal or state law.
- B. The Operator shall, upon request of the Gas Well Administrator, promptly make available a copy of any "incident reports" or written complaints submitted to the RRC or any other state or federal agency.
- C. Beginning a year after a well is spud, and thereafter until the Operator notifies the Gas Well Administrator that the well has been plugged and abandoned and the Drilling and Production Site restored, the Operator shall prepare a written report to the Gas Well Administrator identifying any changes to the information that was

included in the application for the applicable Gas Well Permit that have not been previously reported to the City provided that changes have been made.

- D. The Operator must provide a copy to the Gas Well Administrator of all reports otherwise filed with the TCEQ in connection with an installed vapor recovery unit as described in this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development. The Operator shall also provide the City with copies of any responses provided by TCEQ. Such reports and responses shall be kept on the Drilling and Production Site and shall be available for inspection when requested by the Gas Well Administrator.
- E. The Operator shall provide the City with copies filed with the RRC of the respective reports for setting surface casing, blowout preventer (BOP) pressure testing, bridge plug testing, pressure relief valve testing, and level control testing. The Operator shall also provide the City with copies of any responses provided by the RRC. Copies of such reports and responses shall be kept on the Drilling and Production Site and shall be available for inspection when requested by the Gas Well Administrator.
- F. In addition to the records listed in this chapter, the Operator shall provide the City with a copy of all records filed with the RRC and TCEQ by the Operator or by third parties. Copies of such records shall be kept on the Drilling and Production Site and shall be available for inspection when requested by the Gas Well Administrator.

#### 6.3.7 - Notice of Activities.

##### A. Notice Applicable to Setback Waivers and Variances.

1. An Operator who seeks to reduce Drilling and Production Site Setbacks for a proposed Drilling and Production Site below those prescribed in Subsection 6.2.2, pursuant to the procedures in Subsection 6.2.6, shall give the notice prescribed by this subsection to each owner of surface property within the Drilling and Production Site Setback and to all registered neighborhood associations within one-half mile of the proposed Drilling and Production site at least 20 days prior to filing an application for approval of a Gas Well Development Site Plan for the proposed Drilling and Production Site. The notice shall describe which procedure(s) under Subsection 6.2.6 will be utilized by the Operator to obtain a reduction in the setback and the date of any hearing scheduled before the Board of Adjustment on a variance request. Such notice shall be in addition to any notices required for Board of Adjustment proceedings.
2. The notice shall identify the Operator and give the address and phone number of the Operator's representative, an internet link for information on the proposed request for reduction of setbacks, and contact telephone numbers for the City staff. The notice shall be accompanied by an aerial photograph containing the information in paragraph 6.2.6A.1.a.
3. Notices required by this subsection shall be by depositing the same, properly addressed and postage paid, in the United States mail.

##### B. Notice Applicable to Applications for Gas Well Development Site Plans.

1. At least 20 days prior to the date of filing of an application for approval of an original or amended Gas Well Development Site Plan with the Gas Well Administrator, the Operator shall notify, at the expense of the Operator, each surface owner of property within 1,000 feet of the proposed Drilling and Production Site. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail.
2. The notice shall expressly state whether waivers or variances from the Drilling and Production Site Setback have been granted pursuant to Subsection 6.2.6. The notice shall identify the Operator and give the address and phone number of the Operator's representative, an internet link for information on the proposed

request for reduction of setbacks, and contact telephone numbers for the City staff. The notice shall be accompanied by an aerial photograph containing the information in paragraph 6.2.6A.1.a.

3. At least 20 days prior to the date of filing of an application for an original or amended Gas Well Development Site Plan with the Gas Well Administrator, the Operator shall publish a notice containing the information in paragraph (B)(2) above, at the expense of the Operator, in one issue of the local section of a newspaper of general circulation in the City for 10 consecutive days. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. All notices shall follow a format required by the City.
4. No later than five days after filing of an application for an original or amended Gas Well Development Site Plan with the Gas Well Administrator, the Operator, at Operator's expense, shall erect at least one sign, as approved by the Gas Well Administrator, no less than three feet by three feet, upon the premises upon which a Gas Well Development Site Plan has been proposed. The sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest right-of-way, street, roadway or public thoroughfare adjacent to such property. The Gas Well Administrator may require additional signage if the premises fronts on more than one right-of-way, street, roadway or public thoroughfare. The sign(s) shall state that a Gas Well Development Site Plan has been requested, which if approved, would authorize the drilling of multiple gas wells for the site. The sign shall further set forth that additional information can be acquired by telephoning the Operator at the number indicated on the sign. The sign shall remain posted at the Drilling and Production Site for the duration of the Gas Well Development Site Plan.

**C. Notice Applicable to Activities.**

1. Any Operator who intends to perform the following activities: (1) Drilling Activities; (2) Workover Operations; (3) perform Completion or Re-Completion Operations; (4) plug and abandon a well; (5) perform any other maintenance activities that involve removal of the well head at a Drilling and Production Site; or (6) conduct seismic exploration not involving explosive charges; shall give written notice to the City no sooner than 30 days and no later than 10 days before the activities begin, except in instances where immediate Operator response is necessary, provided that the Operator has first obtained all necessary authorizations required by this Subchapter 6: Gas Wells, and the Fire Code. Road Damage Remediation Fees shall be paid to the City and submitted with the Notice of Activities.
2. Except in instances where immediate Operator response is necessary, all dwellings within 1,000 feet from the boundary of a Drilling and Production Site shall be notified no sooner than 30 days and no later than 10 days prior to the activities listed in Subsection C(1) above, excluding Workover Operations. Such notice shall be by depositing the same, properly addressed and postage paid, in the United States mail.
  - a. The notice shall identify where the activities will be conducted and shall describe the activities in reasonable detail, including but not limited to the duration of the activities and the time of day they will be conducted.
  - b. The notice shall also provide the address and the 24 hour, in-person response, phone number of the Operator responsible for the well concerning the activities.
3. The Operator responsible for the activities shall post a sign at the entrance of the Drilling and Production Site giving the public notice of the activities, including the date and time the activities will begin, and the name, address, and 24-hour, in-person response, phone number of the Operator conducting the activities.
4. If upon receipt of the notice the City determines that an inspection by the Gas Well Administrator is necessary, the Operator will pay the City's fee for the inspection as set forth in amount as established by separate ordinance.

5. The Operator shall notify the Gas Well Administrator within 24 hours of setting surface casing.

#### 6.3.8 - Remedies, Enforcements and Right of Entry.

- A. The Fire Marshal and the Gas Well Administrator are authorized and directed to enforce this Section 6.3: Gas Well Drilling and Production; Section 6.2: Gas Well Development; and the provisions of any Gas Well Permit. Whenever necessary to enforce any provision of this Section 6.3: Gas Well Drilling and Production; Section 6.2: Gas Well Development; or a Gas Well Permit, or whenever there is reasonable cause to believe there has been a violation of this Section 6.3: Gas Well Drilling and Production; Section 6.2: Gas Well Development; or a Gas Well Permit, the Fire Marshal or Gas Well Administrator, may, consistent with federal and state law, enter upon any property covered by this Section 6.3: Gas Well Drilling and Production; Section 6.2: Gas Well Development; or a Gas Well Permit at any reasonable time to inspect or perform any duty imposed by this Subchapter 6: Gas Wells. If entry is refused, the City shall have recourse to every remedy provided by law and equity to gain entry.
- B. It shall be unlawful and an offense for any person to do the following:
  1. Engage in any activity not permitted by the terms of a Gas Well Permit issued under this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development;
  2. Fail to comply with any conditions set forth in a Gas Well Permit issued under this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development; or
  3. Violate any provision or requirement set forth under this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development.
- C. The enforcement and penalty provision under Section 1.6, Enforcement, shall apply to a violation of this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development.
- D. The Gas Well Administrator is authorized to issue citations into municipal court for violations of this Section 6.3: Gas Well Drilling and Production; Section 6.2: Gas Well Development; or Gas Well Permit.
- E. The City may also notify the EPA, TCEQ, RRC or other applicable federal or state agency in connection with violations of this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development.
- F. **Permit Suspension or Revocation.**
  1. If an Operator (or its officers, employees, agents, contractors, subcontractors or representatives) fails to comply with any requirement of any Gas Well Permit issued by the City in connection with any Gas Well Drilling and Production activity, the Fire Marshal or Gas Well Administrator may give written notice to the Operator specifying the nature of the alleged failure and giving the Operator a reasonable time to cure, taking into consideration the nature and extent of the alleged failure, the extent of the efforts required to remedy the failure, and the potential impact on the health, safety, and welfare of the community. The Operator shall notify the Gas Well Administrator within 48 hours indicating how the violation(s) shall be remedied. Unless otherwise provided by this Section 6.3: Gas Well Drilling and Production or Section 6.2: Gas Well Development, in no event, however, shall the Cure Period be less than 10 days unless the alleged failure presents a risk of imminent destruction of property or injury to person. The Fire Marshal may issue a Stop Work Order under the Fire Code.
  2. If the Operator does not cure the alleged failure within the time specified by the Fire Marshal and/or Gas Well Administrator, the Fire Marshal and/or Gas Well Administrator may notify the appropriate state or federal agency with jurisdiction over the alleged violation and request that the state or federal agency take appropriate action (with a copy of such notice provided to the Operator), and the City may pursue any other remedy available.

3. If the Operator does not cure the alleged failure within the time specified by the Fire Marshal and/or Gas Well Administrator, the Gas Well Administrator may recommend to the Board of Adjustment:
  - a. That the Gas Well Permit at issue shall be suspended until the alleged failure is cured; or,
  - b. If the Gas Well Permit at issue was under suspension at any time during the prior two-year period, that the Permit at issue shall be revoked.
4. The decision of the Fire Marshal and/or Gas Well Administrator to recommend suspension or revocation of a Gas Well Permit shall be provided to the Operator in writing at least 10 days before the hearing to be held by the Board of Adjustment.
5. If a Gas Well Permit is revoked, the Operator may submit information to the Gas Well Administrator evidencing that the alleged failure resulting in the revocation of the Gas Well Permit has been corrected, and an application for a new Gas Well Permit may be submitted for the same well.

#### 6.3.9 - Watershed Permits for Gas Well Developments.

##### A. Applicability.

1. A Watershed Protection Permit shall be approved prior to approval of any Gas Well Development Site Plan, Gas Well Development Plat, or Gas Well Permit that includes land in any flood fringe area or ESA within the corporate limits or ETJ of the City, and for any proposed site that is within 1,200 feet of the flood pool elevation of Lake Ray Roberts or Lake Lewisville. Approval of a Watershed Protection Permit authorizes the processing of a complete application for a Gas Well Development Site Plan or Gas Well Development Plat, as the case may be, that includes land in a flood fringe area or ESA, or for a site that is within 1,200 feet of the flood pool elevation of Lake Ray Roberts or Lake Lewisville. No gas well development is allowed in the floodway, including the area of an ESA located in a floodway.
2. Inside the City limits, a Watershed Protection Permit for gas well development can be approved only if the City Council authorizes a Specific Use Permit. In making a recommendation for the SUP, the Director shall apply those standards set forth in Subsection 6.3.9D below. In the City's ETJ, a Watershed Protection Permit may be approved by the Director of Environmental Services, or designee pursuant to the procedures in Subsection 6.3.9C below.
3. A Watershed Protection Permit application may be submitted simultaneously with an application for a Specific Use Permit.

##### B. Application Requirements and Processing. A Watershed Protection Permit shall be processed in accordance with the following:

1. An application for a Watershed Protection Permit shall contain the following information and such information as may be required by the Development Review Committee and the Environmental Services Department, which is reasonably necessary to review and determine whether the proposed development and required facilities meet the requirements of this Section 6.3: Gas Well Drilling and Production; Section 6.2: Gas Well Development; and as required by the Application Criteria Manual. In addition the information shall include the following:
  - a. A Tree Inventory Plan shall show the location of ESAs on any proposed Drilling and Production Site.
  - b. Show location of ESAs on proposed Drilling and Production Sites.
2. All applications for Watershed Protection Permits shall be filed with the Development Services Department, who shall immediately forward all applications to the DRC for review. Incomplete applications shall be returned to the applicant, in which case the City shall provide a written explanation of the deficiencies. The

City shall retain a processing fee determined by the City Council. The City may return any application as incomplete if there is a dispute pending before the Railroad Commission regarding the determination of the Operator. No application shall be deemed accepted for filing until the application is complete.

**C. Procedures.**

1. Each application for a Watershed Protection Permit for gas well development in the ETJ shall be approved or denied by the Director of Environmental Services or designee following DRC review.
2. Criteria for Approval for Watershed Protection Permit for Gas Well Development in the City limits. In reviewing the application for a Watershed Protection Permit, the Director shall apply those standards set forth in Subsection 6.3.9D below. The Director may attach such conditions to approval of a Watershed Protection Permit as are necessary to assure that the requirements of Subsection 6.3.9D below and any other applicable requirements contained in this Section 6.3: Gas Well Drilling and Production and Section 6.2: Gas Well Development, are met.
3. Criteria for Approval for Watershed Protection Permits for gas well developments within the ETJ. In deciding the application for a Watershed Protection Permit, the Director shall apply those standards set forth in paragraph 6.3.9D.1; paragraph 6.3.9D.2 for riparian buffers within floodplains; and paragraph 6.3.9D.5. The Director may attach such conditions to approval of a Watershed Protection Permit as are necessary to assure that the requirements of these components of Subsection 6.3.9D below and any other applicable requirements in this Section 6.3: Gas Well Drilling and Production and Section 6.2: Gas Well Development, are met.
4. Each Watershed Protection Permit shall:
  - a. Identify each well subject to the Permit;
  - b. Specify the date on which the Permit was issued;
  - c. Incorporate by reference all applicable standards of approval; and
  - d. Incorporate by reference all applicable conditions of approval.
5. The applicant may appeal the Director's denial or conditional approval of a Watershed Protection Permit in the ETJ on grounds pertaining to the standards in Subsection 6.3.9C.3 below to the City Council within 10 calendar days of the decision by the Director. The Council shall decide the petition based upon the criteria in Subsection 6.3.9C.3 below and any other applicable requirements contained in this Section 6.3: Gas Well Drilling and Production and Section 6.2: Gas Well Development.

**D. Watershed Protection Permit Standards.** The standards in this Subchapter 6: Gas Wells, are adopted pursuant to the authority granted by TLGC, Section 551.002 and Chapter 211 and are intended to minimize adverse impacts on areas within the Flood Fringe or ESA, reduce flood damage, and lessen the potential for contaminating surface water or any water supply.

1. **Location of Sites.** Drilling and Production Sites shall be located outside floodplains and other ESAs whenever practicable to minimize adverse impacts on these areas, reduce flood damage, and lessen the potential for contaminating surface water or any water supply.
2. **Riparian Buffers.** For all ESAs constituting or containing riparian buffers prior to the approval of a Gas Well Development Site Plan:
  - a. If a riparian buffer is designated as "fair" to "excellent" ESA, the designated protective stream buffer width as specified in Section 7.4, Environmentally Sensitive Areas of this DDC shall apply, and no encroachments shall be allowed.
  - b. Within all areas except unstudied floodplains, if the stream is designated as a "poor" ESA, the designated

width of the protective stream buffer shall be decreased by either 50 percent or to the limits of the floodway whichever is greater, but in no instance shall the protective stream buffer width be decreased below 25 feet measured each direction from the centerline of the existing channel.

3. **Tree Mitigation.** In the event of a conflict between this Subchapter 6: Gas Wells, and 7.7.4, Tree Preservation, this Subchapter 6: Gas Wells, shall control. Tree mitigation for gas wells located in an ESA shall be required and shall be calculated on a one to one replacement value for 100 percent of the diameter breast height ("dbh") of trees removed from the Drilling and Production Site. Tree mitigation shall be accomplished by planting replacement trees, within a floodplain, on-site or off-site with similar tree species or by payment into a Tree Mitigation Fund. Tree Mitigation Funds that are specific to ESAs will be kept separate from other Tree Mitigation Funds and will only be used to either acquire wooded floodplain or riparian property that remains in a naturalistic state in perpetuity, or to purchase conservation easements within riparian or floodplain areas. Funds may be used to purchase, plant, and maintain trees on public property, as long as the public property is within a riparian area or floodplain.
  4. **Tree Removal.** Any request to remove tree(s) shall be accompanied by a letter from a certified geologist or engineer that indicates why the well site cannot be located to avoid the trees. If Operator has chosen to pay into the Tree Mitigation Fund, such funds shall be paid prior to approval of a Final Gas Well Development Site Plan or Gas Well Development Plat for the ESA.
  5. **Limitation on Well Heads.** Only one well head may be placed in the Flood Fringe or other ESA under the following conditions:
    - a. Storage tanks or separation facilities shall be constructed at least 18 inches above the established Base Flood elevation plus the surcharge depth for encroachment to the limits of the floodway having a one percent chance of being equaled or exceeded in any year.
    - b. A hydrologic and hydraulic engineering study shall be performed by a Registered Professional Engineer. The study shall be submitted to the Engineering Department in a technical report for review by the City Engineer or his designated representative. The report shall demonstrate that the proposed facilities will have no adverse impacts on the carrying capacity of the adjacent waterway nor cause any increases to the elevations established for the floodplain. When the Special Flood Hazard Areas (SFHA) on the subject site is designated as "Zone A" on the FIRM Panel, or the SFHA is not identified on the FIRM Panel, the following approximate method may be used to evaluate the impacts from gas well development. A flow rate shall be calculated using procedures set forth in the City of Denton Drainage Criteria Manual. Using Manning's Equation with an estimate of the average slope of the stream, measurements of a single irregular cross-section geometry at the well site, and the one hundred-year discharge rate, the average velocity and normal depth may be calculated. Calculations shall be provided for the unaltered existing channel cross-section and for the proposed modified channel cross-section and submitted to the City for review and approval prior to construction within these areas.
    - c. No more than 10 percent of the flood fringe, within the limits of the Gas Well Development Site Plan or Gas Well Development Plat, may be filled.
  6. **Additional Standards inside City Limits.** For land inside the City limits, all conditions imposed by any applicable SUP, MPC District or a PD District for the land subject to the Watershed Protection Permit, as well as the standards in Subsection 6.3.9D and any other applicable requirements contained in this Section 6.3: Gas Well Drilling and Production and Section 6.2: Gas Well Development, shall apply.
- E. **Post-Approval Procedures.**
1. If evidence from water quality monitoring efforts indicates that contamination is occurring from gas wells, the



Operator shall remove, cause to be removed, or otherwise remediate contamination, as required by the Gas Well Administrator including but not limited to Waste Minimization Practices established by the RRC. Cleanup operations shall begin immediately. A re-inspection fee shall be charged as established by the City Council and published in the Application Criteria Manual.

2. An associated Watershed Protection Permit shall expire with the expiration of the Gas Well Development Site Plan or Gas Well Development Plat and may not be extended prior to expiration.