

ORDINANCE NO. 2016-016

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, REPEALING ORDINANCE NO. 2013-248 AND ENACTING A NEW ORDINANCE RELATING TO PLANNING AND DEVELOPMENT FEES AS IT CONCERNS: GAS WELL DRILLING AND PRODUCTION IN THE CITY OF DENTON AND ITS EXTRATERRITORIAL JURISDICTION; PRODUCTION MONITORING OF DRILLING AND PRODUCTION SITES AS REQUIRED BY THE CITY'S GAS WELL DRILLING AND PRODUCTION ORDINANCE; ROAD DAMAGE REMEDIATION FEE CALCULATIONS DUE TO DAMAGE TO CITY OF DENTON ROADWAYS FROM GAS WELL DRILLING; ASSESSMENT OF PENALTIES AND INTEREST; AND SETTING AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance No. 2013-248, the City Council of the City of Denton, Texas established certain fees related to gas well drilling and production in the City of Denton and the extra-territorial jurisdiction of the City, and also established a formula for the calculation of road damage remediation fees in the interest of recovering costs associated with damage to city roadways from gas well drilling and production activities; and

WHEREAS, the City enacted Ordinance 2015-233 on August 4, 2015, thereby amending the City's regulations relating to gas well drilling in the City in order to comply with HB 40 (Texas Natural Resources Code, Sec. 81.0523) enacted by the Texas Legislature on May 18, 2015; and

WHEREAS, the City Council deems it prudent to harmonize Ordinance 2015-233 and the assessment of fees associated with gas well drilling and production and associated activities; and

WHEREAS, all fees assessed under this Ordinance have been comprehensively reviewed, are fair and reasonable, and do not exceed the reasonable cost to the City in providing the scheduled service; and

WHEREAS, the City Council deems it in the best interest of the City to allow a short period of fee reduction in order to encourage gas well operators to file Site Plans on those gas well drilling and production sites existent in the City as of the effective date of this Ordinance; **NOW, THEREFORE,**

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. The Planning and Development Fee Schedule for gas well production is set forth in Exhibit "A", which Exhibit is incorporated herein as though set forth in full, and is hereby adopted.

SECTION 3. The Planning and Development Fee Schedule for production monitoring, as required by Section 35.22.2.G.1.b. of Ordinance No. 2015-233 (the "Gas Well Ordinance") for gas well operators who have received a reduction to the setback requirements in said Ordinance, is set forth in Exhibit "B", which Exhibit is incorporated herein as though set forth in full, and is hereby

adopted.

SECTION 4. The Road Damage Remediation Fee Calculation Formula adopted by Ordinance No. 2013-248 remains unchanged and is hereby re-adopted as part of this Ordinance, which fee calculation formula is set forth in Exhibit "C".

SECTION 5. Planning and Development fees are due and owing at the time of application and delinquent if not paid at that time. No permit will issue until payment is made.

Inspection fees are due and owing on or before the 30th day following the end of the month when any inspection(s) are performed and are delinquent thereafter, and will be billed to the operator of record.

Road Remediation Fees are due and owing at the time the operator of record notices the City of intent to perform any activities specified in Ordinance 2015-233; or, in the event of failure to notice the City of activities specified in Ordinance 2015-233, at the time the operator embarks upon such specified activities, and are delinquent thereafter.

Production monitoring fees are due and owing on or before the 30th day following the end of the when any inspection(s) are performed and are delinquent thereafter, and will be billed to the operator of record.

To cover a portion of the administrative costs of collecting past due balances, a late payment charge of \$20.00 shall be assessed on the fifth business day following the due date of any fees assessed. Furthermore, interest shall be assessed on any past due account balance (excluding late payment charges) that remains unpaid at the time of each monthly billing calculation. The interest provided for and assessed shall be due and payable on the due date of the month's billing statement. The interest charge shall be 1% per month on all past due charges and account balances unpaid at the time of the succeeding month's billing calculations; however, the interest charge provided for herein shall not exceed the legal rate of interest, and the City intends only to assess, charge and collect such interest rate that does not exceed the highest lawful rate.

SECTION 6. Ordinance 2013-248 is hereby superseded and repealed.

SECTION 7. This ordinance shall become effective immediately.

PASSED AND APPROVED this, the 26 day of January, 2016.



CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: Jennifer Walters

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY: Anita Burgess

Exhibit "A"
Planning and Development Fee Schedule

| Activity | Fee |
|--|-------------|
| Gas Well SUP Review - Watershed Protection Permit (WPP) | \$12,925 |
| Watershed Protection Permit | \$265 |
| Gas Well SUP Review as Part of PD/MPC Review | \$500 |
| Gas Well Development Site Plans | |
| Initial Review – First 2 years | \$3,960 |
| Initial Review – After 2 years | \$7,570 |
| Amendment (non-SUP related) | \$3,960 |
| With SUP Amendment - First 2 years | \$5,470 |
| With SUP Amendment - After 2 years | \$8,070 |
| Gas Well Development Plats | |
| Initial Review | \$2,880 |
| Amendment | \$2,880 |
| Additional Fees Charged for Gas Well Development Site Plans and Plats, if applicable | |
| Additional Fee for Engineering Review | \$415 |
| Additional Fee for Full Landscape Plan Review (includes initial inspection and one follow-up inspection) | \$495 |
| Additional Fee for 2 nd Follow-Up Inspection (3 rd site visit) for Landscape Plan | \$265 |
| Additional Fee for Full Tree Mitigation Review (includes initial inspection and one follow-up inspection) | \$395 |
| Additional Fee for 2 nd Follow-Up Inspection (3 rd site visit) for Tree Mitigation Plan | \$165 |
| Annual Inspection and Administration Fee (within City Limits) per well located on the same Drilling and Production Site (covers two annual inspections) | |
| 1-2 wells | \$1,125 per |
| 3-5 wells | \$900 per |
| ≥ 6 wells | \$500 per |
| Additional Fee for 2 nd Follow-Up Inspection (3 rd site visit) | \$490 |
| Annual Inspection and Administration Fee (within ETJ) per Drilling and Production Site (covers two annual inspections) | |
| 1 well on site | \$325 |
| ≥ 2 wells on site | \$720 |
| Additional Fee for 2 nd Follow-Up Inspection (3 rd site visit) | \$40 |
| Erosion and Sediment Control | |
| Annual Inspection (covers initial inspection and one follow-up inspection) per each Drilling and Production Site | \$205 |
| Additional Fee for 2 nd Follow-Up Inspection (3 rd site visit) | \$175 |
| Transfer of Operation | |
| Per Well | \$300 |
| Maximum | \$720 |
| Gas Well Permits | |
| First Permit issued under a Gas Well Development Site Plan | \$530 |
| Each Subsequent Permit issued under a Gas Well Development Site Plan | \$370 |
| Initial Gas Well Inspections - Includes Initial Erosion Control Review (required for each Gas Well Permit, first or subsequent) | \$1,720 |

EXHIBIT "B"
Production Monitoring Fee Schedule

| The following fees shall be charged for the each inspection based on the number of wells on a Drilling and Production Site | |
|--|---------|
| 1 | \$1,900 |
| 2-4 | \$2,450 |
| 5-8 | \$3,300 |
| 8-12 | \$4,500 |
| 13-18 | \$6,500 |

**EXHIBIT C
ROAD DAMAGE REMEDIATION CALCULATION**

Initial Drilling and Fracturing - Piped Water

| Road Type | Construction Cost/Lane Mile 2013 | AASHTO Design Life (ESAL) | Consumptive Use (ESAL) | New Pad | | Existing Pad | |
|-----------|----------------------------------|---------------------------|------------------------|---------------------|--------------------------|------------------------|--------------------------|
| | | | | Consumptive Use (%) | Assessment Per Lane Mile | Road Damage Percentage | Assessment Per Lane Mile |
| I | \$67,500 | 1,000 | 719.82 | 71.982% | \$48,588 | 55.097% | \$37,190 |
| II | \$128,503 | 13,000 | 719.82 | 5.537% | \$7,115 | 4.238% | \$5,446 |
| III | \$150,920 | 250,000 | 719.82 | 0.288% | \$435 | 0.220% | \$332 |
| IV | \$275,000 | 1,600,000 | 719.82 | 0.045% | \$124 | 0.034% | \$94 |

Initial Drilling and Fracturing - Hauled Water

| Road Type | Construction Cost/Lane Mile 2013 | AASHTO Design Life (ESAL) | Consumptive Use (ESAL) | Consumptive Use (%) | Assessment Per Lane Mile | Road Damage Percentage | Assessment Per Lane Mile |
|-----------|----------------------------------|---------------------------|------------------------|---------------------|--------------------------|------------------------|--------------------------|
| | | | | | | | |
| II | \$128,503 | 13,000 | 1567.52 | 12.058% | \$15,495 | 10.759% | \$13,826 |
| III | \$150,920 | 250,000 | 1567.52 | 0.627% | \$946 | 0.559% | \$844 |
| IV | \$275,000 | 1,600,000 | 1567.52 | 0.098% | \$270 | 0.087% | \$239 |

Fracturing - Piped Water

| Road Type | Construction Cost/Lane Mile 2013 | AASHTO Design Life (ESAL) | Consumptive Use (ESAL) | Consumptive Use (%) | Assessment Per Lane Mile | Road Damage Percentage | Assessment Per Lane Mile |
|-----------|----------------------------------|---------------------------|------------------------|---------------------|--------------------------|------------------------|--------------------------|
| | | | | | | | |
| II | \$128,503 | 13,000 | 315.57 | 2.247% | \$2,887 | 1.129% | \$1,451 |
| III | \$150,920 | 250,000 | 315.57 | 0.126% | \$190 | 0.059% | \$89 |
| IV | \$275,000 | 1,600,000 | 315.57 | 0.073% | \$201 | 0.009% | \$25 |

Fracturing - Hauled Water

| Road Type | Construction Cost/Lane Mile 2013 | AASHTO Design Life (ESAL) | Consumptive Use (ESAL) | Consumptive Use (%) | Assessment Per Lane Mile | Road Damage Percentage | Assessment Per Lane Mile |
|-----------|----------------------------------|---------------------------|------------------------|---------------------|--------------------------|------------------------|--------------------------|
| | | | | | | | |
| II | \$128,503 | 13,000 | 1163.27 | 8.948% | \$11,498 | 7.649% | \$9,829 |
| III | \$150,920 | 250,000 | 1163.27 | 0.465% | \$702 | 0.398% | \$601 |
| IV | \$275,000 | 1,600,000 | 1163.27 | 0.073% | \$201 | 0.062% | \$171 |

Fee Calculation Formula

| Road Type | Access Lane Miles Per Plat | Assessment Per Lane Mile | Assessment Per Road Type |
|--------------------------------|----------------------------|--------------------------|--------------------------|
| I | x | | |
| II | x | | |
| III | x | | |
| IV | x | | |
| Total Assessment (see Note #5) | | | \$7,500 |

NOTES:

- Road Type I is six inch (6") flex base with chip seal;
- Road Type II is six inch (6") flex base with chip seal and a two inch (2") asphalt overlay;
- Road Type III is six inch (6") treated subgrade with six inches (6") of asphalt;
- Road Type IV is six inch (6") treated subgrade with eight inches (8") of asphalt;
- Minimum charge for Road Damage Remediation is \$7,500 per well;
- Maximum charge for Road Damage Remediation is up to the maximum Assessment Per Lane Mile per well as shown above.