

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, AMENDING SUBCHAPTERS 22 OF THE DENTON DEVELOPMENT CODE, RELATING TO GAS WELL DRILLING AND PRODUCTION, DEFINITIONS, AND PROCEDURES; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND AN EFFECTIVE DATE. (DCA12-0005).

WHEREAS, the City of Denton, Texas is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code and accordingly enjoys broad powers of self governance; and

WHEREAS, the authority of a home rule city to regulate the exploration and production of natural gas within its city limits and extraterritorially, as herein provided, is legislatively recognized, *inter alia*, at Section 92.007 of the Texas Natural Resources Code, Chapters 54, 211, 212, 217, and 551 of the Texas Local Government Code, Chapter 26 of the Texas Water Code, Chapter 382 of the Texas Health and Safety Code, and numerous other legislative and Constitutional provisions of the State of Texas; and

WHEREAS, the City Council, pursuant to Ordinance No. 2002-040 adopted the Denton Development Code (the "Development Code") wherein contained is the City's gas well drilling and production regulations, Subchapter 22, attendant with applicable procedures and definitions in Subchapters 3 and 23;

WHEREAS, the City amended Ordinance No. 2002-040 pursuant to Ordinance No. 2010-181 to further address gas well drilling concerns within the City of Denton; and

WHEREAS, it has come to the attention of the City Council that the City's current regulations may not fully implement the City's goals of allowing gas well operations while protecting the public's health, safety and general welfare in that the Barnett Shale gas play is a massive reservoir of natural gas underlying a substantial portion of southern Oklahoma and North Central Texas, with the most active production zone being situated under the highly urbanized Denton, Tarrant, and Wise counties; and

WHEREAS, rising demand for clean alternative fuel sources, and the advent of new drilling and production technologies, including hydraulic fracturing, has encouraged mineral development in these areas; and

WHEREAS, the City Council of the City of Denton, Texas has witnessed the conflict between increased drilling and urban expansion, and acknowledges the need to regulate the conflicting land use issues between gas well operations and surface owners seeking the peaceful and quiet enjoyment of their property; and

WHEREAS, the City Council finds that potentially harmful impacts of gas well drilling and production within the City fall most heavily upon neighborhoods and properties adjacent to gas well drilling and production operations; and

WHEREAS, the City appointed a task force composed of five individuals, Dr. Tom LaPoint, Professor, University of North Texas, Department of Biology; Vicki Oppenheim, AICP, Environmental Planning and Founder of Greenleaf; John Siegmund, Retired Wells Fargo Advisor and Retired Petroleum Engineer; Dr. Ed Ireland, Burnett Shale Energy Education Council (BSEEC); and Don Butler, New Tech Global, to represent environmental interests, the gas industry and neighborhood interests to review the City's regulations and recommend appropriate changes and, in so doing, to balance the interests of the mineral owners and operators as against quality of life issues for those citizens working and living near drilling sites and production infrastructure; and

WHEREAS, the task force, with the assistance of the public through multiple public hearings, recommended many changes to Denton's gas well ordinance, including increasing the permitted distance requirements, increasing notification to the citizens of Denton, additional noise abatement procedures, site security, signage, and other revisions that will provide additional protections of surface property rights while continuing to allow access to the minerals; and

WHEREAS, the Denton Area Drilling (DAG) committee, made up of university professors, students, environmental activists, and other citizens conducted extensive research and held multiple public hearings in the interest of assisting the City Council with their decision making; and

WHEREAS, Denton's Planning and Zoning Commission committed long hours and much work toward the betterment of this ordinance, and considered much public testimony in the process; and

WHEREAS, the City Council is most appreciative of the work of both the Task Force and the DAG, as well as that of the Planning and Zoning Commission, and the City Council has followed and studied the findings and the research in support of these findings as related to all these groups; and

WHEREAS, the City Council's regulation of gas wells in the City is based upon the work of Task Force, the DAG and the Planning and Zoning Commission, as well as the multitude of public comments received before these groups and before the City Council; and

WHEREAS, the City Council does hereby incorporate by reference all the minutes, work papers and recommendations of the Task Force, the DAG and the Planning and Zoning Commission, all the studies relied upon and referenced by them, all public comments made before them, as well as on the City's website and before the City Council; and

WHEREAS, the City Council finds all the work of the Task Force, the DAG and the Planning and Zoning Commission to be exemplary and in the public interest; and

WHEREAS, the City Council particularly finds compelling the evidence in support of remedying the impacts of gas well drilling in an urban environment, to include noise, dust, odor, light pollution, vibrations, fire safety, visual aesthetics (i.e., fencing), construction standards and materials, buffers, preservation of surface property values and the character of neighborhoods, incompatibility, infrastructure related to public health and welfare such as water wells; setbacks, landscaping, public notice, signage, issues related to operating hours; operator insurance issues, road impacts, and other quality of life issues; and

WHEREAS, the City Council finds that gas well flaring, gas well pits, gas well completion techniques, closed loop systems, vapor recovery units water and soil impacts, other environmental impairment issues, methods of plugging and abandoning wells, pits involved in gas well operations, emergency operation plans, and other operational aspects of extraction of minerals trigger the immediately referenced concerns to a significant degree, as well as triggering concerns regarding public health, life, property and the preservation of good government, order and security of the City of Denton and its inhabitants; and

WHEREAS, the City Council finds that the aforesaid gas well operations have the propensity for polluting or degrading streams, drains, recharge features, or tributaries that may constitute or recharge the City of Denton’s drinking water supply, and the City finds a need to police the watersheds within its boundaries and within its extraterritorial jurisdiction; and

WHEREAS, the City Council notes various studies conducted by neighboring cities relating to gas well drilling within municipalities, including Flower Mound’s various studies involving property values and environmental matters, as well as the City of Fort Worth’s studies relating to gas well drilling in the city of Fort Worth, and the City Council does hereby incorporate by reference these studies relating to the impacts of gas well drilling in a municipal setting; and

WHEREAS, the City Council has determined that the most effective way of preventing or moderating potentially harmful impacts of gas well drilling and production activities on adjacent and proximate land uses is to invoke the City’s zoning powers by establishing requirements for site plans and gas well permits; and

WHEREAS, after providing notice and after conducting a public hearing as required by law, the City Council finds that the subject changes to the Denton Development Code are consistent with the Comprehensive Plan and are in the public interest; **NOW THEREFORE**,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. All of the above recitals, including the findings made therein, are hereby found to be true and correct factual and legislative determined of the City of Denton, Texas and are hereby approved and incorporated by reference as though fully set forth herein.

SECTION 2. Subchapter 22 of the Denton Development Code (“Gas Well Drilling and Production”) is amended to incorporate the specific changes as identified in redline format in

Exhibit "1", together with a clean version of Subchapter 22, as amended, in Exhibit "2", which are attached and incorporated fully herein by reference.

SECTION 3. All ordinances in conflict herewith, are amended and superseded to the limited extent of such conflict, and all remaining sections and provisions of such ordinances, not in direct conflict herewith, are hereby made cumulative.

SECTION 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by any court, such invalidity shall not affect the validity of other provisions or applications, and to this end the provisions of this ordinance are severable.

SECTION 5. Any person violating any provision of this ordinance shall, upon conviction, be fined a sum not exceeding \$2,000.00. Each day that a provision of this ordinance is violated shall constitute a separate and distinct offense.

SECTION 6. This ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record-Chronicle, a daily newspaper published in the City of Denton, Texas, within ten (10) days of the date of its passage.

PASSED AND APPROVED at the City Council meeting posted and commenced on the 15th day of January, 2013.

MARK A. BURROUGHS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

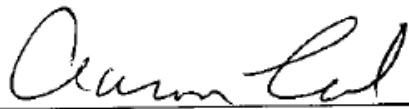
BY: 

EXHIBIT "1"

Redline Ordinance Version

35.22.1. - 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 ~~destruction~~devaluation of property; to protect watersheds; ~~and to prevent deleterious uses of groundwater resources that actually or potentially threaten the health of persons in proximity to drilling and production activities; within the City of Denton; to prevent or moderate noxious emissions of gases that potentially threaten the health of nearby residents and employees; to prevent injury to persons and property; and 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 this Subchapter 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 ~~utilization of the~~ the quiet enjoyment of affected surface estates. The regulations contained in this Subchapter 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 generate noxious aerial emissions, introduce contaminants into groundwater, 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 and destabilization of property values in the vicinity of such operations.
3. The City of Denton recognizes that the United States and the State of Texas regulate gas well drilling and production activities for the purpose of implementing broad air quality and water quality goals. The regulations in this Chapter are intended to supplement such standards in order to implement compatible local objectives that assure the health, safety and general welfare of the City's residents and businesses.

B. **Authority.** This Subchapter 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 shall be construed as an exercise of the City's zoning powers, pursuant to the Denton City Charter, Texas Local Government Code Chapters 211 and 212 and the provisions of Subchapter 35.5 of the Denton Development Code (DDC).

C. **Applicability.** The provisions of this Subchapter apply only within the corporate limits of the City of Denton, except as otherwise stated in section 35.16.19 of the DDC.

35.22.2. - Definitions.

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined shall have the meanings customarily attributable thereto by prudent operators in the gas industry. For the purposes of this Subchapter, the following definitions, without regard to whether the defined terms are capitalized when used, shall apply unless the context clearly indicates or requires a different meaning.

~~**Abandonment.** "Abandonment" as defined by the Railroad Commission and includes the plugging of the well and restoration of the drill site as required by this Subchapter.~~

Ambient Noise Level. An all-encompassing noise level associated with a given environment. A composite of sounds from all sources (excluding the noise in question) at the location and approximate time at which a comparison with the noise in question is to be made. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location. The Ambient noise level is established by recording sounds from all sources (excluding the noise in question) over a continuous seventy-two (72) hours period at the location prior to drilling. The seventy-two (72) hour time span shall include at least one twenty-four (24) hour reading during either a Saturday or Sunday.

Blowout Preventer (BOP). ~~a~~A mechanical, hydraulic, or pneumatic apparatus, or combination of such apparatus, or other device or combination of such devices, that can be secured to the over top of an open wellbore, or drill pipe or casing tubular that, well casing, including valves, fittings and control mechanisms connected therewith, which, via remote actuators, can be closed around the drill pipe, or other tubular goods which completely closes the top of the casing and are designed to prevent blowouts. can be actuated remotely in the event that an emergency well control situation arises. The primary function of the BOP is to shut the well and to regain pressure control of the formation fluids from blowing out of the well.

~~**Cathodic protection.** An electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection current is supplied by sacrificial anode materials or by an impressed current system.~~

Closed-loop mud system. A system that uses a combination of solids control equipment incorporated in a series of steel tanks that eliminates the use of a pit.

Commencement of Drilling Activities. The reflection of either "Spud Well" or "Nipple Up" the Blow Out Protectors (BOP) by the drilling contractor on the IADC-API Daily Drilling Report Form maintained by the Operator's tool pusher on the pad site.

Completion combustion device. Any ignition device, installed horizontally or vertically, used in exploration and production operations to combust otherwise vented emissions from completions.

Completion of drilling, re-drilling and re-working. The date the work is completed for drilling, re-drilling, or re-working, and the crew is released by completing its work or contracted by its employer.

Contaminant. Any substance capable of ~~causing pollution contaminating a non-related homogeneous material, fluid, gas or environment. , including but not limited to smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, drilling fluids including muds, or other irritants.~~

Daytime. The period from 7:00 am to 7:00 pm., Monday through Friday; and from 8:00 am to 5:00 pm., Saturdays and Sundays.

Delineation well. A well drilled in order to determine the boundary of a field or producing reservoir.

Drilling. ~~Any digging or boring of a new well to develop or produce gas or to inject gas, water, or any other fluid or substance into the earth. Drilling means and includes the re entry of an abandoned well. Drilling does not mean or include the re entry of a well that has not been abandoned. 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, most critically, to maintain an overbalanced pressure gradient against the formation that may contained inherently pressurized well fluids.~~

Drilling and Production Area Site (A/K/A Gas Well Park, Gas Well Pad Site, and Drilling and Production Area). The area dedicated to all gas well drilling ~~and~~ or production activities, or both, including the drilling and production area site, all structures, closed-loop systems, dehydrators, parking areas, security cameras, lighting, tanks, tank battery (or any other tank grouping area), drilling rigs, separators, compressors, perimeter walls, utilities, and all other features or objects contemplated for use during and after gas well drilling or production activities, as designated on the Gas Well Development Plat or Gas Well Development Site Plan. Excluded from this definition are gathering and transmission lines and compressor stations.

Drill Site. The area used for drilling, completing, or re-working a well.

Emergency Action Plan (EAP). A written document which includes a set of procedures intended to guide an organization's response to an accident or emergency.~~that facilitates and organizes actions during emergencies.~~

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.

Field Natural Gas. Natural gas extracted from a production well prior to entering the first stage of processing, such as dehydration.

Flowback. The process of recovering fluids or residual from a completed or fractured well. The process of allowing fluids to flow from a natural gas 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 begins when material introduced into the well during the treatment returns to the surface immediately following hydraulic fracturing or refracturing. The flowback period ends with either well shut in or when the well is producing continuously to the flow line or to a storage vessel for collection, whichever occurs first.

Fracturing. The use of stimulants injected into a gas well to split or fracture the formation to improve the productivity of the gas well. The process of directing pressurized fluids containing any combination of water, proppant, 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.

Freshwater Well. A private water well used by a protected use.

Gas. Gas or natural gas, as such terms are used in the rules, regulations, or forms of the RR Railroad Commission. Typically, a naturally-occurring gaseous substance primarily composed of methane and other light, gaseous hydrocarbons.

Gas Processing Facility. A processing 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 Production (A/K/A Production). The phase that occurs after successful exploration, drilling and development involving operations including, but not limited to, gas wells, tanks, dehydrators, separators, mud pits, ponds, tank batteries or associated mechanical equipment, and during which hydrocarbons are extracted from the gas field, excluding those operations and facilities as defined and regulated by the Pipeline Safety Act of 1994, 49 U.S.C. §§ 60101—60137.

Gas Well. Any well drilled for the production of gas or classified as a gas well under the Texas Natural Resources Code.

Gas Well Permit. Any written license granted by the City of Denton for the exploration, drilling, development, and production, and operation of natural gas, issued pursuant to rules and regulations of this Subchaptersection. A Gas Well Permit is required for each well. A Gas Well Permit applied for and issued or denied under this Subchapter authorizing the drilling, production, and operation of one or more gas wells.

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 single or multi-family dwellings, accessory guest houses, hotels, condominium buildings, public buildings, and enclosed buildings used for commercial or industrial purposes. A habitable

structure shall not include ~~non-habitable~~ accessory buildings, ~~mobile homes~~, 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. The process of directing pressurized fluids containing any combination of water, proppant, 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 Refracturing. Conducting a subsequent hydraulic fracturing operation at a well that has previously undergone a hydraulic fracturing operation.

Leak Detection and Compliance Plan (LDCP). A plan that is submitted to ensure applicable site activities and equipment are in compliance with relevant rules and regulations.

Lift Compressor. A mechanized device that raises the pressure of a compresses gas compressible fluid (gas) in order prior to its introduction into a well for use to in lifting gas well liquids to the surface. from the well.

Lightning Protection System. An integrated system that provides a means for controlling lightning strikes and preventing damage by providing a low resistance path for the discharge of energy. 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.

Line Compressor. An electrical or gas-powered-pumping device that raises increases the pressure of a compressible fluid (gas) natural gas so that its pressure exceeds that of the inherent line pressure of the pipe to which it is being introduced. in order for the gas to be transported through a pipeline.

Liner. In pit construction, a liner is an impervious A continuous layer of materials, 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. In well construction, a liner is a tubular sheath employed downhole for a variety of purposes, such as isolating a particular zone, repairing casing leaks, augmenting the integrity of the hole size, among others. beneath and on the sides of a pit that restricts the downward and lateral release of fluids.

Low pressure gas well. A well with reservoir pressure and vertical well depth such that 0.445 times the reservoir pressure (in psia) minus 0.038 times the vertical well depth (in feet) minus 67.578 psia is less than the flow line pressure at the sales meter.

New Well. A new well bore- drilled from surface or new hole lateral wellbore drilled from an existing vertical pilot hole at a depth different from other laterals in the same well; or a section of an existing well that is purposefully deviated or “kicked-off” around an abandoned lower section

of the initial hole. Not to be confused with recompletion. ~~established at the ground surface and shall not include the re-working of an existing well that has not been plugged and abandoned.~~

Nighttime. The period commencing at 7:00 p.m. and ending at 7:00 a.m., Monday through Friday and from 5:00 p.m. to 8:00 a.m., Saturdays and Sundays.

Nipple Up. The process of assembling well-control or pressure-control equipment on the wellhead.

~~**NORM.** Naturally Occurring Radioactive Material. NORM encountered in oil and gas exploration, development and production operations originates in subsurface formations, which may contain radioactive materials such as uranium and thorium and their daughter products, radium 226 and radium 228. NORM can be brought to the surface in the formation water that is produced in conjunction with oil and gas. NORM in these produced waters typically consists of the radionuclides, radium 226 and 228. In addition, radon gas, a radium daughter, may be found in produced natural gas.~~

Oil and Gas Inspector or Inspector. An inspector 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. Also responsible for processing and approving Gas Well Development Plat, Gas Well Development Site Plan and Gas Well Permit applications.

~~**Operation Site.** The area used for development and production and all related operational activities of gas after drilling activities are complete.~~

Operator. The person(s) listed on the Railroad Commission Form W-1 or Form P-4 for a well as the person that is, has applied for, or will be actually in charge and in control of drilling, maintaining, operating, pumping, or controlling any well or pipeline including without limitation, a unit operator.

~~**Permit.** Any written license granted by the City of Denton for the exploration, development, and production of gas wells issued pursuant to rules and regulations of this Subsection.~~

~~**Permit, Gas Well.** Any written license granted by the City of Denton for the exploration, drilling, development, and production of natural gas, issued pursuant to rules and regulations of this Subsection.~~

Petroleum Specialist. A person familiar with and educated in the oil and gas industry who has been retained by the City.

Pit. A temporary or permanent containment for circulated fluids. A pit shall include:

Completion/Workover pit: Pit used for storage or disposal of spent completion fluids, workover fluids and drilling fluid, silt, debris, water, brine, oil scum, paraffin, or other

materials which have been cleaned out of the wellbore of a well being completed or worked over.

Drilling fluid disposal pit: Pit, other than a reserve pit, used for disposal of spent drilling fluid.

Fresh makeup water pit: Pit used in conjunction with drilling rig for storage of water used to make up drilling fluid.

Mud circulation pit: Pit used in conjunction with drilling rig for storage of drilling fluid currently being used in drilling operations.

Reserve pit: Pit used in conjunction with drilling rig for collecting spent drilling fluids; cuttings, sands, and silts; and wash water used for cleaning drill pipe and other equipment at the well site. Reserve pits are sometimes referred to as slush pits or mud pits.

Saltwater disposal pit: Pit used for disposal of produced saltwater.

Washout pit: Pit located at a truck yard, tank yard, or disposal facility for storage or disposal of oil and gas waste residue washed out of trucks, mobile tanks, or skid-mounted tanks.

Water Condensate pit: Pit used in conjunction with a gas pipeline drip or gas compressor station for storage or disposal of fresh water condensed from natural gas.

Plugging and Abandonment. "Abandonment" "Plugging" as defined by the Railroad Commission and includes the plugging of the well, abandoned, orphaned or otherwise, and restoration of the Drilling and Production Site as required by this Subchapter.

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

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

Reduced emissions completion. A well completion following fracturing or refracturing where gas flowback that is otherwise vented is captured, cleaned, and routed to the flow line or collection system, re-injected into the well or another well, used as an on-site fuel source, or used for other useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.

Re-working. Re-completion or re-entry of an existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than one hundred fifty (150) feet from the existing well bore, or replacement of well liners or casings.

Site-specific authorization means the prior approval by ordinance of 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 Code or as specified within the site approval ordinance (or both), as applicable.

Spud. The first time the drill bit enters the ground for gas well drilling and production.

Tank. A natural or man-made container, covered or uncovered, in which to ~~used~~ store, contain or mix liquids or hydrocarbons used or produced in conjunction with the drilling, stimulation or production operations of an oil or gas well. ~~of gas or other hydrocarbons for holding or storing fluids.~~

Technical advisor. Such person(s) familiar with and educated in the oil and gas industry or the law as it relates to oil and gas matters who may be retained from time to time by the City of Denton.

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

Well completion. The process that allows for the flowback of petroleum or natural gas from newly drilled wells to expel drilling and reservoir fluids and tests the reservoir flow characteristics, which may vent produced hydrocarbons to the atmosphere via an open pit or tank.

Well completion operation. Any well completion with fracturing or refracturing occurring at a gas well affected facility.

Wildcat well. A well outside known fields or the first well drilled in an oil or gas field where no other oil and gas production exists.

Workover Operation. Work performed on a well after its initial completion ~~in an effort~~ to secure production where there has been none, to restore production that has ceased, or to enhance or to increase production within the zone originally completed.

35.22.3. - Zoning District Classifications for Gas Well Drilling and Production.

- A. The drilling and production of gas within the corporate limits of the City shall be permitted by right within the Rural Residential (RD-5) or within any unzoned area of the City that is subject to the use regulations of the RD-5 District, Rural Commercial (RC), Neighborhood Residential 1 (NR-1), Neighborhood Residential 2 (NR-2), Regional Center Commercial Neighborhood (RCC-N), Regional Center Commercial Downtown (RCC-D), Employment Center Commercial (EC-C), Employment Center Industrial (EC-I), Industrial Center Employment (IC-E) and Industrial Center General (IC-G) Zoning Districts, except as provided in subsection B, and subject to compliance with the requirements of this ~~s~~Subchapter.

B. The drilling and production of gas within the corporate limits of the City in all other zoning districts shall be permitted only by Specific Use Permit pursuant to subchapter 35.6, or through approval of a Detailed Plan in a Planned Development (PD) district, or site-specific authorization in Master Planned Community (MPC) district. Notwithstanding the provisions of Subsection A, approval of a Specific Use Permit also shall be required for gas well drilling and production on any land located within the 100-year flood way fringe or within one thousand, two hundred (1,200) feet of the flood pool elevation of Lake Ray Roberts or Lake Lewisville.

1. An application for a Specific Use ~~p~~Permit, or site-specific authorization in a planned development district (PD) or master planned community district (MPC), for the drilling and production of a gas well shall be filed by the person having legal authority to do so. That person is presumed to be the record owner, mineral owner, or the duly authorized agent of either the record owner or the mineral owner. The ~~Chairman of the Development Review Committee (DRC)~~ Director of Planning and Development may require an applicant to submit information of authority to file an application.
2. The Chairman of the DRC has the authority to establish requirements for applications in the Application Criteria Manual. No application shall be accepted for filing until it is complete and the fee established by the City Council of the City of Denton has been paid. Incomplete applications shall be returned less a fee for processing determined by the Director of Planning and Development.
3. Approval of a ~~SUP~~pecific Use Permit, ~~or a detailed plan in a PD District or site-specific authorization in a planned development district (PD) or master planned community district (MPC) district~~, shall be conditioned on compliance with the requirements of this ~~s~~ubchapter.

35.22.4. - Required Authorization for Gas Well Drilling and Production in City Limits.

- A. No gas well 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 Specific Use Permit, where required by Section 35.22.3.B., approval of a Detailed Plan in a ~~Planned Development (PD)~~ district, or site-specific authorization in a ~~Master Planned Community (MPC)~~ district;
 2. Approval of a Watershed Protection Permit, where location of any gas well drilling or production activities is proposed on land in the flood fringe or in an Environmentally Sensitive Areas (ESA), subject to the application requirements and standards of Section 35.22.5.A.8;
 3. Approval of a Gas Well Development Site Plan, subject to the application requirements and standards of Section 35.22.6; and

4. Approval of a Gas Well Permit, subject to the application requirements and standards of Section 35.22.7.
- B. An application for any authorization for gas well drilling and production listed in Subsection A may be submitted simultaneously with any other listed application, but the applications must be ~~decided~~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 ~~decided~~ approved.
 - C. Approved applications for gas well drilling and production shall expire under the following circumstances:
 1. A Specific Use Permit, or site-specific authorization in a ~~planned development PD~~ PD district (~~PD~~) or ~~master planned community district (MPC)~~ district, expires according to its terms;
 2. A Watershed Protection Permit expires with the expiration of a Gas Well Development Site Plan.
 3. A Gas Well Development Site Plan expires unless a complete application for a ~~g~~Gas ~~w~~Well ~~p~~Permit has been filed within one (1) years of the date of approval of the site plan.
 4. A Gas Well Permit expires if gas well drilling activities have not commenced within six (6) months of the date of approval of the Gas Well Permit.
 5. The expiration of any subsequent application results in the expiration of all prior approved applications for the same activity.
 - D. Approved applications for gas well drilling and production may not be extended prior to expiration. Following expiration of an approved application for gas well drilling and production, a new application must be submitted, which shall be subject to all DDC standards and procedures then in effect.
 - E. ~~Each authorization identified in this Section shall be construed as an exercise of the City's police power, pursuant to the Texas Constitution, the City's zoning powers, pursuant to City Charter, Tex. Loc. Gov't Code Chapter 211 and the provisions of Subchapter 35.5 of the DDCenton Development Code.~~
 - ~~E~~E. 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 ~~e~~Code or by any other government agency.
 - ~~G~~F. Legal Non-Conformity Provision; Exceptions.

1. The provisions of Subchapter 11 are applicable to gas well drilling and production activities. For purposes of Subchapter 11, the drilling of a new gas well and associated production activities do not constitute an existing use. Every Operator of a Drilling and Production Site that has been annexed into the City shall register the Drilling and Production Site within 30 days of the effective date of the annexation.
2. AmendmentsUnless the City determines that an exemption provided under Texas Local Government Code, Section 245.004 or successor statute applies to an amendment to the standards and procedures in DD~~Center~~ Development Code Subchapters 35.3, 35.16, 35.22 and 35.23, or that Texas Local Government Code, Chapter 245 otherwise is inapplicable to permits for gas well drilling and production, such standards or procedures, except to the extent necessary to give effect to this subsection F, do not apply to the authorizations applications for permits for gas well drilling and production identified in subsection 35.22.4.A., if, on the effective date of such amendatory ordinance, the following circumstances existed:
 - a. For a specific use permits, an application for a specific use permit (SUP) is was pending on the effective date of the amendatory ordinance; or
 - b. For a detailed plans infor a Planned Development (PD) district, or site specific authorizations in a Master Planned Community (MPC) district, created on or after April 27, 2005, a conceptual plan for development approved with the ordinance establishing the PD or MPC district identifies the location, the nature and extent of the activities to be developed on land designated for future gas well drilling or production an application for the detailed plan was pending on the effective date of the amendatory ordinance; or
 - c. For a detailed plan for a PD district created on or after April 27, 2005, but before the effective date of the amendatory ordinance, an application for the detailed plan submitted after the effective date of the amendatory ordinance was pursuant to a conceptual plan for development approved with the ordinance establishing the PD district that identifies the location and the nature and extent of the activities to be developed on land designated for future gas well drilling or production; or
 - d. For a Gas Well Development Site Plan or Gas Well Development Plat (including any associated Watershed Protection Permits), an application was pending on the effective date of the amendatory ordinance; or
 - e. For Gas Well Development Site Plans and any associated Watershed Protection Permits, a Drilling and Production Site was the subject of an approved or pending application for an SUP, detailed plan within a PD district, or site specific authorization within an MPC district for gas well drilling and production that was still pending or in effect on the date the amendatory ordinance became effective, provided that the application is subject to all gas well drilling and production standards in effect immediately prior to such date; or

- e. For a Gas Well Development Site Plan or Gas Well Development Plat (including any associated Watershed Protection Permits), an application was submitted after the effective date of the amendatory ordinance for a Drilling and Production Site that was the subject of: (1) a specific use permit approved or pending on the effective date of the amendatory ordinance; or (2) a detailed plan for a PD district created on or after April 27, 2005, but before the effective date of the amendatory ordinance, that identifies the location and the nature and extent of the activities to be developed on land designated for future gas well drilling or production; or (3) an MPC district created on or after April 27, 2005, but before the effective date of the amendatory ordinance, that identifies the location and the nature and extent of the activities to be developed on land designated for future gas well drilling or production.
 - f. For a Gas Well Permit, an application was pending on the effective date of the amendatory ordinance; or
 - ~~d. For Gas Well Permits, the application for the Gas Well Permit is subject to an approved or pending Gas Well Development Site Plan that identifies the Drilling and Production Site, on the effective date of the amendatory ordinance, provided that the application is subject to all gas well drilling and production standards in effect immediately prior to such date.~~
 - g. For a Gas Well Permit, an application was submitted after the effective date of the amendatory ordinance pursuant to a Gas Well Development Site Plan or Gas Well Development Plat approved or pending on the effective date of the amendatory ordinance that identifies the Drilling and Production Site to which the application applies.
3. Authorizations or applications excepted under this subsection 2 are subject to all gas well drilling and production standards in effect immediately prior to the effective date of the amendatory ordinance, and to any standards or procedures effected by the amendatory ordinance which the City determines to be exempt from the application of Texas Local Government Code Chapter 245.
4. To the extent that any exception provided under this subsection 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.
25. Any Operator person who has been denied an exemption exception under this section Subsection 2 for one or more pending permit applications, or who otherwise claims that he has obtained a vested right pursuant to Texas Local Government Code, Chapter 245 or other applicable vesting law for such applications, may request a determination pursuant to Section 35.3.8 of the DDC.

G. Vested Rights:

~~Any Operator who believes that he has obtained a vested right under Chapter 245 of the Texas Local Government Code or other applicable vesting law may request a vested rights/preemption determination in accordance with Section 35.3.8 of the DDC.~~

35.22.5. - Standards for Gas Well Drilling and Production.

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

1. **Separation standards.** The following requirements apply only within City limits.

- a. No ~~gas well~~ ~~Drilling~~ ~~and~~ ~~Production area~~ Site may be located within one thousand (1,000) feet of any Protected Use, or freshwater well currently in use at the time a complete application for a ~~Gas Well Development Plat~~ or Gas Well Development Site Plan is filed, or within one thousand (1,000) feet of any lot within a previously platted residential subdivision where one (1) or more lots have one (1) or more habitable structures.
- b. Except where more stringent separation distances are specified, the minimum separation distance between a ~~gas~~ ~~Drilling~~ ~~and~~ ~~Production area~~ Site and all other habitable structures other than those listed in 35.22.5.A.1.a, shall be five hundred (500) feet.
- c. The minimum separation requirement established in 35.22.5.A.1.a- above may be reduced via the granting of a variance by the Zoning Board of Adjustment. Except that the Zoning Board of Adjustment shall not reduce the minimum separation distance any less than five hundred (500) feet.
- d. In lieu of 35.22.5.A.1.c above, the standards established in 35.22.5.A.1.a and b may be reduced if all the ~~property~~ owners of the Protected Uses, all owners of property with a freshwater well currently in use at the time a complete application for a Gas Well Development Site Plan is filed, and all owner of lots in a previously platted residential subdivision where one (1) or more lots have one (1) or more habitable structures within the reduced separation area, consent to the reduction via a notarized waiver, and the notarized waiver is attached to the permit application. However, the minimum separation distance shall not be reduced to less than two hundred and fifty (250) feet, via the notarized waiver.
- e. Notwithstanding any other provision of this subsection, a Protected Use or lot within a previously platted residential subdivision where one (1) or more lots have one (1) or more habitable structures may be located as close as two hundred fifty (250) feet of a pre-existing ~~Drilling and Production area~~Site, provided that the lots or Protected Use is not served by a freshwater well that is located within one thousand (1,000) feet of the drilling and production area.

- f. Separation distances shall be measured from the boundary of the ~~Drilling and Production areas~~ Sites identified on the ~~Gas Well Development Plat of Gas Well Development Site Plan~~, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any structure occupied by a Protected Use, or freshwater well currently in use at the time a complete application for a gas well development site plan is filed, or the closest lot line of any undeveloped lot within a previously platted residential subdivision where one (1) or more lots have one (1) or more structures.
2. **On-site requirements.** The following requirements apply only within City limits.
- a. ~~An~~ secured entrance gate shall be required. Street lighting shall be required pursuant to Section 26-76 of the Utility Code of the Code of the City of Denton, Texas or the sign identifying the entrance to the drill site or operation site shall be reflective.
- b. Fencings, buffering, landscaping and screening shall not be required on ~~drill~~ Drilling and Production sSites, during initial drilling, completion, or re-work operations as long as twenty-four (24) hour on-site supervision is provided. Once ~~initial~~ initial twenty-four (24) hour supervision has ceased, Drilling and Production Sites shall provide security, landscaping, and fencing. all drilling features including storage pits shall be fenced to prevent access. Notwithstanding the foregoing, all All required fencing, landscaping, buffering and screening must be installed in accordance with the approved PlantingLandscape Plan and Schedule within one-hundred and eighty (180) days after initial drilling of the first approved well. Should the Operator decide to fence in gathering and transmission lines or compressor stations, or both, Operator shall install the fencing in accordance Subchapter 13 of the DDC.
- c. ~~Fences located on operation~~ Drilling and Production sSites shall remain secured and the gate shall be locked at all times when no one is present.
- cd. No refining process, or any process for the extraction of products from gas, shall be carried on at a ~~Drilling and Production sSite or operation site~~, except that a dehydrator and separator may be maintained on a ~~Drilling and Production site or operation sSite~~ 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.
- ed. Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED", in both English and Spanish, in a minimum of four-inch lettering shall be posted at the entrance of each ~~drill site and operation~~ Drilling and Production sSite. The sign shall include the development or operating company that is currently responsible for the gas well plat or site plan, the ~~RRC~~ RR ~~oil~~ road ~~Commission~~ Well Identification Number and the American Petroleum Institute number for the well, the phone number for emergency services (911), the number for the operator, and

any other well designation required by the ~~RRC~~Railroad Commission in two-inch lettering.

- ~~f~~e. No person shall place, deposit, or discharge (or cause or ~~permit~~ 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 or the ETJ of the City of Denton.

- ~~g~~f. All production equipment on an operation site shall be painted and maintained at all times, including pumping units, storage tanks, buildings, and structures. 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:
 - i. Protective coatings and paints shall comply with any applicable State or City coloring requirements. In absence of any such requirement, protective coatings and paints shall be of a neutral color that is compatible with the surrounding environment.

 - ii. All exposed surfaces of the identified equipment must be coated and painted, and free from rust, blisters, stains, or other defects.

- ~~h~~g. All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding areas or subdivision.

- ~~i~~h. All fire suppression and prevention equipment required by any applicable federal, state, or local law shall be provided by the ~~o~~Operator, at the ~~o~~Operator's cost, and maintenance and upkeep of such equipment shall be the responsibility of the ~~o~~Operator.

- ~~j~~i. No ~~o~~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, with other ordinances of the City, and with the specifications established by the Engineering Department.

- ~~k~~j. 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 limits of public right-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.

kl. No Gas Well Permit shall be issued for any well to be drilled within any of the streets or alleys of the City and/or streets or alleys shown by The Denton Plan, 1999-2020 and no street shall be blocked or encumbered or closed due to any exploration, drilling, or production activities unless prior consent is obtained by the City Manager, and then only temporarily.

lm. ~~All pits shall be lined and Pit liners shall be~~ shall be designed, constructed, and installed to prevent any migration of materials from the pit into adjacent subsurface soils, ground water, or surface waters at any time during the life of the pit. All lined pits shall adhere to in accordance with the liner standards set forth by the RR Railroad Commission. Any new Drilling and Production Sites proposed after October 2 December 18, 2012 must shall utilize a closed-loop mud system.

mn. ~~All well heads, storage tanks, separation facilities or other mechanical equipment located within one thousand (1,000) feet of any Protected Use, or any lot within a previously platted residential subdivision where one (1) or more lots have one (1) or more habitable structures, or within five hundred (500) feet of all other habitable structures other than those listed in 35.22.5.A.1.a, and not within a floodplain, shall be screened with an eight foot high or higher opaque decorative masonry wall, if the Protected Use, habitable structures, or platted lot preexisted the approval of the first applicable requirement in the sequence of authorizations established under 35.22.4. AnyH Drilling and Production Sites shall be screened with an opaque decorative masonry fence that shall be no less than eight (8) feet in height.~~

i. In lieu of this requirement, an alternative fence that is compatible with the area surrounding the Drilling and/or Production Site may be approved by the Director of Planning and Development.

Alternative fencing shall not be constructed wholly or in part with what is commonly known as barbed wire on or along the line of any public Right-of-Way in the City, other than in an area zoned for agricultural use pursuant to the authority of the DDC.

Barbed wire is not prohibited along the tops of fences when such fence is more than five (5) feet high.

ii. Required fencing must be located within three hundred (300) feet of all equipment necessitating fencing and security requirements under this Subchapter.

no. Vapor Recovery Units.

1. Vapor recovery equipment is required for facilities not included under Rule§106.352 of TAC Title 30, Part 1, Chapter 106, Subchapter O; or its successor regulation.

Vapor recovery equipment must be operated and maintained in such a way to ensure ninety five percent (95%) recovery efficiency between the internal and external atmospheres of the tank(s).

2. An Operator shall notify the Oil and Gas Inspector within two (2) days after the first sale of gas from a well. An Operator shall notify the Gas and Well Inspector within two (2) days after the first sale of gas from a well.

~~p. Any equipment identified to contain Naturally Occurring Radioactive Material (“NORM”) in accordance with Texas Administrative Code, Title 16, Part 1, Chapter 4, Subchapter F or Chapter 401, or both, of the Health and Safety Code shall be managed in accordance with applicable RRC and Texas Department of State Health Services (DSHS) regulations. This stipulation includes appropriate tagging and signage for equipment in use and proper disposal upon the end of equipment usage.~~

~~eo. Any Lift compressors which is must be installed within an approved Drilling and Production Site, and shall be located at least twenty-four (24) feet from the outer boundary of the site.~~

p. Commencing on the December 18, 2012, except as provided in sub-paragraph (v) of this section, for each well completion operation with hydraulic fracturing:

i. For the duration of flowback, recovered liquids shall be routed into one or more storage vessels or re-injected into the well or another well, and the recovered gas shall be routed into a gas flow line or collection system, re-injected into the well or another well, used as an on-site fuel source, or used for another useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere. If this is infeasible, the requirements in sub-paragraph (iii) of this paragraph shall be followed.

ii. All salable quality gas shall be routed to the gas flow line as soon as practicable. In cases where flowback emissions cannot be directed to the flow line, the requirements in sub-paragraph (iii) of this section shall be followed.

- iii. Flowback emissions shall be captured and directed to a completion combustion device, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact waterways. Completion combustion devices must be equipped with a reliable continuous ignition source over the duration of flowback.
- iv. Releases to the atmosphere during flowback and subsequent recovery shall be minimized.
- v. The requirements of sub-paragraphs (i) and (ii) shall not apply to:
 - 1. Each well completion operation with hydraulic fracturing at a gas well meeting the criteria for wildcat or delineation well.
 - 2. Each well completion operation with hydraulic fracturing at a gas well meeting the criteria for non-wildcat low pressure gas well or non-delineation low pressure gas well.
- g. Soil sampling: Pre- and post-drilling; periodic soil sampling. Soil sampling shall be required for all new Drilling and Production Sites. Soil sampling shall be subject to the following requirements:
 - i. Upon application for an Oil and Gas Well Permit, soil sampling shall be conducted prior to the commencement of any drilling at the proposed Drilling and Production Site to establish a baseline study of site conditions. A minimum of one soil sample shall be taken at the location of any proposed equipment to be utilized at the Drilling and Production Site to document existing conditions at the Drilling and Production Site.
 - ii. A licensed third party consultant shall be utilized to collect and analyze all pre-drilling and post-drilling soil analyses. The cost of such consultant shall be borne by the Operator.
 - iii. Soil samples must be collected and analyzed utilizing proper sampling and laboratory protocol from a United States Environmental Protection Agency or Texas Commission on Environmental Quality approved laboratory. The results of the analyses will be addressed to the City and a copy of the report shall be provided to the Operator and surface estate owner. The analyses will include the following analyses at a minimum: TPH, VOCs, SVOCs, Chloride, Barium, Chromium and Ethylene Glycol.
 - iv. Post-drilling soil samples shall be collected and analyzed after the conclusion of drilling of each well. Subsequent to the drilling of each well, periodic soil samples shall be taken as determined by the Oil and Gas Inspector during inspection events to document soil quality data at the Drilling and Production

Site. Samples shall include, but not be limited to, areas where removed equipment was located. Results of the analyses shall be provided as described in Subsection A.2.q.iii.

v. Whenever abandonment occurs pursuant to the requirements of the RRC and as referenced in 35.22.5.A.6.k, the Operator so abandoning shall conduct post production soil sampling within three (3) days after equipment has been removed from the Drilling and Production Site to document that the final conditions are within regulatory requirements. Results of the analyses shall be provided as described in Subsection A.2.q.iii.

vi. If any soil sample results reveal contamination levels that exceed the minimum state or federal regulatory levels, the City shall submit the soil sample results to the appropriate state or federal regulatory agency for enforcement.

r. Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least 150 feet from the vicinity of any well, tank, or pump station.

s. An Operator shall not maintain or use any pit for storage of oil or oil products or oil field fluids, or for storage or disposal of oil and gas wastes.

3. **Operations and equipment practices and standards.** The following requirements apply only within City limits.

a. Adequate nuisance prevention measures shall be taken to prevent or control offensive odor, fumes, dust, noise and vibration.

b. Directional lighting shall be provided for the safety of gas well drilling, completion and production operations and shall be ~~provided~~ installed and operated in a fashion designed to disturb so as to not disturb or adversely affect adjacent developments in the least possible manner.

c. The ~~Operator~~ shall at all times comply with the applicable rules and regulations of the ~~RRC and/or Railroad Commission~~ including but not limited to all applicable Field Rules.

d. ~~Internal combustion engines with mufflers may be used in drilling operations. To address noise concerns, Only electric motors shall be used for the purpose of drilling, transferring or blending chemicals, compressing gas, lifting or pumping gas wells-, compressing gas, or any related activity at a Drilling and/or Production Site. The Oil and Gas Inspector may approve the use of an alternative motor An alternative motor that produces lower noise levels than an electric motor. emissions lower than, or equal to, the emissions produced by an electric motor may be approved by the Oil and Gas Inspector.~~

- e. ~~There shall be no venting or flaring of gases into the open air in residential areas except as allowed by the RRC or TCEQ Railroad Commission and as approved by the Fire Marshal Oil and Gas Inspector. If venting or flaring is allowed approved by the RRC or TCEQ, the activities shall not be located closer than one thousand (1,000) feet from any protected use, unless: (1) a setback variance has been granted pursuant to 35.22.5; or (2) if practical and if approved by the City Fire Marshal, ground flaring that is wholly enclosed or screened with a masonry wall. ; in which case the activities shall be screened to minimize visual, noise and light impacts, and to address fire safety concerns.~~
 - f. Vehicles, equipment, and machinery shall not be placed or located on a ~~drill site or operation site~~ Drilling and Production Site (or on any public street, alley, driveway, or other public right-of-way) in such a way as to constitute a fire hazard or to unreasonably obstruct or interfere with fighting or controlling fires.
 - g. Only Light Sand Fracture Technology or fracture stimulations approved by the RRC technologies approved by the Oil and Gas Inspector Fire Marshal in accordance with the Fire Code City shall be used to fracture stimulate a well.
 - h. Fracing operation shall be scheduled to occur during daylight hours unless the Operator has notified the ~~Fire Marshal~~ Oil and Gas Inspector that fracing will occur before or after daylight hours to meet safety requirements.
 - i. ~~Air, gas, or p~~Pneumatic drilling shall not be permitted.
 - j. ~~Any N~~otices required herein shall be made pursuant to Subsection 35.22.12
 - k. Except in the case of an emergency, gas well flaring shall only be conducted during day-time hours.
 - ~~l. Gas well fracturing may only be conducted during day time hours.~~
 - ~~l. No person may haul or dispose of oil and gas waste off the Drilling and/or Production Site or other oil or gas property where it is generated without first obtaining a permit issued by the RRC to haul and dispose of oil and gas waste.~~
4. **Storage tanks and separators.** The following requirements apply only within City limits.
- a. An ~~e~~Operator is allowed to construct, use, and operate such storage equipment and separation equipment as shown on the approved ~~Gas Well Development Site Plat or 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 as shown on the applicable ~~Gas Well Development Plat or Gas Well Development Site Plan~~.

- c. No Drilling and Production Site gas well development is allowed in the FEMA designated one hundred (100) year floodway. ~~or A Drilling and Production Site is allowed~~ within one thousand two hundred (1,200) feet of the flood pool elevation of Lake Ray Roberts or Lake Lewisville with an approved Specific Use Permit.
- d. No storage tanks or separation facilities shall be placed in the Flood Fringe or other ESA except in accordance with Subsection 35.22.5.(A.)8.

5. Flow lines and gathering lines.

- a. Each ~~o~~Operator shall place ~~an identifying pipeline marker sign~~ at each point where a flow line or gathering line crosses a public street or road.
- b. Each ~~o~~Operator shall place a warning sign for lines carrying H2S (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.
- ~~d. Structures shall not be built over flow lines or gathering lines.~~

6. Additional safety and environmental requirements. The provisions of 35.22.5(A)6 this section shall apply both within the corporate limits of the City of Denton and within the ETJ of the City of Denton.

- a. The drilling and production of gas and accessing the ~~gas well~~ Drilling and Production sSite shall be in compliance with all state and federal environmental regulations. No gas well development or activity is allowed in the FEMA designated one hundred (100) year floodway. Drilling within Flood Fringe or other ESA shown on the Map adopted by the City is allowed under the restrictions set forth in Section 35.22.5.(A.)8.
- b. 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. ~~Compost berms that are at least one (1) foot high and two (2) feet wide, or equivalent erosion control devices, shall be installed so that all portions of the well pad that may drain off site are contained. Damage resulting from sedimentation and/or erosion shall be repaired immediately.~~
- c. As an exception to 35.22.5.A.6.a. or a Specific Use Permit required by 35.22.3.B, ~~G~~gas wells may have a target location or bottom-hole location that is under the

floodway, an ~~ESA environmentally sensitive area (ESA)~~ or within one thousand two hundred (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.

- d. 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.
- e. 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.
- f. All storage tanks shall be anchored for stability.
- g. All storage tanks shall be equipped with either steel or concrete secondary containment systems including lining with an impervious material. The secondary containment system shall be of a sufficient height to contain one and one-half (1½) times the contents of the largest tank in accordance with the Fire Code. Drip pots shall be provided at pump out connections to contain the liquids from the storage tank.
- h. ~~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 twenty-four (24)-hour rainfall as determined by a twenty-five (25)-year storm and provisions shall be made to drain accumulations of ground water and rainfall.
- i. ~~Tank battery facilities~~ Drilling and Production Sites shall be equipped with a ~~remote foam line and a lightning arrestor 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 remote foam line and a lightning arrestor system.
- j. A Hazardous Materials Management Plan shall be on file with the Fire Marshal. Any updates or changes to this plan shall be provided to the Fire Marshal within three (3) working 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 storm water and weather elements.

- k. All wells shall be plugged and abandoned in accordance with the rules of the ~~RRC Railroad Commission~~; however, all well casings shall be cut and removed to a depth of at least ten (10) feet below the surface unless the surface owner submits a written agreement otherwise. Three (3) feet shall be the minimum depth. In addition, the Operator shall:
- i. Submit a copy of ~~their~~ its RRC Form W-3A (Notice of Intention to Plug and Abandon) and Form W-3 (Plugging Record) forms to the Inspector within two (2) business days of filing with ~~after these forms are submitted to the RRC~~;
 - ii. ~~Send~~ Notify the Oil and Gas Inspector a ~~notice~~ of the intention to plug and abandon and ~~provide the anticipated date such work will commence~~ a well at least twenty-four (24) hour prior to commencing activities; and
 - iii. Submit to the Oil and Gas Inspector 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.
 - iv. Submit a copy of a soil sampling analysis as required by Subsection 35.22.5.A.2.q.
- l. Operators must close each Drilling and Production Site in a manner that minimizes the need for care after closure. To achieve this requirement, the site shall be reclaimed to the condition identified on the Site Reclamation Plan, as nearly as practicable. In the event development encroaches up to the property after drilling and production activities, a reasonable rehabilitation alternative may be approved by the City to ensure the reclaimed site is compatible with the surrounding properties.
- ~~l. No structures shall be built over an abandoned well.~~
- m. ~~No gas well drill sites shall be allowed on slopes greater than ten (10) percent.~~
- n. No salt-water disposal wells shall be located within the City of Denton.
- ~~o. Lining the reserve pit shall be required if the reserve pit is within two hundred (200) feet of a body of water, creek, or floodplain.~~
- ~~p. No gas well permit will be issued for any well where the Drilling and Production Site ~~center of the well at the surface of the ground is located within one thousand (1,000) feet of an existing fresh water well intended for domestic use, unless a variance, or consent from neighboring property owners, has been obtained per~~ 35.22.5.A.1.~~

- qp. ~~The contents of any pits shall always be operated maintained with a minimum of at least two (2) feet below the top of the pit of freeboard above the contents within it.~~
- qf. ~~For safety reasons, Ffencing shall be installed to restrict access to a reserve pit or other type of open pit water reservoir utilized in gas well drilling operation at a drill site within the corporate limits of the City, except as provided in Section 35.22.5, C.2.e.~~
- sr. 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 potential leak, discharge, or otherwise spill hazardous or solid materials. liquids, semi-liquids, or solid waste materials, including hazardous waste inseparable by simple mechanical removal processes that is made up primarily of natural material.
- ts. After the well has been completed, or plugged and abandoned, the ~~o~~Operator shall clean and repair all damage to public property caused by such operations within thirty (30) days.
- ut. After any spill, leak or discharge malfunction, the ~~o~~Operator shall remove or cause to be removed all contamination and associated waste materials, ~~from any public or private property affected by such spill, leak or malfunction. Clean-up operations shall begin immediately.~~
- uv. The ~~d~~Drilling and Production ~~s~~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 outside the ~~d~~Drilling and Production- Site ~~site within a radius of one hundred (100) feet around any separators, tanks and producing wells within the leased property.~~
- wv. ~~Drilling mud and reserve~~All- pits associated with Drilling and Production Sites shall adhere to the following requirements.
 - i. The type of pit used in drilling operations shall be specified at the time of permitting. The ~~o~~Oil and ~~g~~Gas ~~i~~Inspector may perform a contamination assessment for any reserve pit, completion/work-over pit, drilling fluid disposal pit, fresh makeup water pit, mud circulation pit, washout pit, or water condensate pit. The following concentrations for contaminants will be used to determine if contamination exists within any materials in the pits:

Compound	Concentration limit

TPH	15 mg/L
BTEX	500 µg/L
Benzene	50 µg/L
From 30TAC 321.131.138	

If concentrations exceeding these values are detected, the operator shall remove, cause to be removed, or otherwise remediate contaminants, ~~to the satisfaction of the oil and gas inspector~~ to below the limits provided herein. Cleanup operations shall begin immediately. Cleanup activities that do not begin within twenty-four (24) hours of notification by the oil and gas inspector shall be considered a violation of this Subchapter.

- ii. Only freshwater-based mud systems shall be permitted. Saltwater-based mud systems and oil-based mud systems are prohibited.
- iii. Chloride content of fluids held in ~~reserve~~ pits may not exceed three thousand (3,000) milligrams per liter.
- iv. No metal additives may be added to any drilling fluids.
- v. All fluid produced from the well during completion of production shall be held in enclosed containers while stored on the property.
- vi. All fluids shall be removed ("de-watering") from the ~~reserve~~ pits within thirty (30) days of completion of drilling operations.
- vii. The pit and its contents shall be removed from the premises within ninety (90) days after completion of the drilling of a well; provided, however, that the permittee may apply for a ninety (90)-day extension from such requirements based on showing of good cause, necessity to maintain said pit, inclement weather, or other factors. The City may designate a period of time shorter than the ninety (90)-day extension set out herein.
- w. All pits shall be backfilled in accordance with the following schedule. The Director of Planning and Development may grant permission for a pit to remain at the site if the surface property owner submits a written request.

- _____ i. Reserve pits and mud circulation pits shall be dewatered within 30 days and backfilled and compacted within ninety (90) days of cessation of drilling activities.
- ii. All completion/workover pits used when completing a well shall be dewatered within thirty (30) days and backfilled and compacted within one hundred and twenty (120) days of well completion.
- iii. All completion/workover pits used when working over a well shall be dewatered within thirty (30) days and backfilled and compacted within one hundred and twenty (120) days of completion of re-work operations.
- iv. Basic sediment pits, flare pits, fresh mining water pits, and water condensate pits shall be dewatered, backfilled, and compacted within one hundred and twenty (120) days of final cessation of use of the pits.
- x. Each operator must submit to the City a water conservation plan for uses of water.; ~~if under TAC Title 30, Part 1, Chapter 288, Subchapter A or its successor regulation.~~ The plan must provide information in response to each of the following elements.
 - i. 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;
 - ii. If long-term, five (5) to ten (10) years, water storage is anticipated, quantified five-year and ten-year targets for water savings and the basis for the development of such goals;
 - iii. A description of the device(s) and/or method(s) within an accuracy of plus or minus 5.0% to be used in order to measure and account for the amount of water diverted from the source of supply;
 - iv. Leak-detection, repair, and accounting for water loss in the water distribution system;
 - v. Application of state-of-the-art equipment and/or process modifications to improve water use efficiency; and
 - vi. 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.
- _____ y. No gas well ~~operation~~drilling and production shall be permitted within twelve hundred (1,200) feet of the flood pool elevation of Lake Ray Roberts or Lake Lewisville, unless the Operator first obtains a SUP.

- y. ~~The provisions of 35.22.5(A)6 shall apply both within the corporate limits of the City of Denton and within the ETJ of the City of Denton.~~

7. Supplemental drilling.

- a. Supplemental drilling to deepen or directional drill an existing well shall be conducted in accordance with the conditions for the applicable ~~SUP~~specific Use Permit or ~~PD~~anned Development Zoning District or underlying zoning classification that permits gas development by right. The operator shall provide the ~~Fire Marshal~~ Oil and Gas Inspector a copy of additional ~~RRC~~railroad Commission permits that allow drilling to a deeper depth.
- b. Supplemental drilling to deepen or directional drill an existing well shall be conducted in accordance with the approved Gas Well Permit for the well on file with the City.

8. Watershed Protection Requirements for Wells located in Flood Fringe or other ESA's.

The standards in this subsection are adopted pursuant to the authority granted by Texas Local Government Code, Section 551.002 and are intended to minimize adverse impacts on areas within in the Flood Fringe or ESA, reduce flood damage, and lessen the potential for contaminating surface water or any water supply.

ag. The provisions of 35.22.5.(A.)6 and 35.22.5.(A.)8 shall apply both within to a Drilling and Production Site required to have a Watershed Protection Permit within the corporate limits of the City of Denton. and within the ETJ of the City of Denton. The provisions of 35.22.5.A.8 shall apply to a Drilling and Production Site required to have a Watershed Protection Permit located within the corporate limits of the City of Denton or within the ETJ of the City of Denton.

b. Drilling and Production Sites shall be located outside 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.

ca. Prior to location of any gas well in the Flood Fringe or ESA, the property owner or applicant shall first obtain approval of an application that meets the criteria of the Application Criteria Manual for a Watershed Protection Permit and shall comply with the provisions of Subsection 35.22.5. and shall be located outside these areas whenever practicable to minimize adverse impacts on these areas, reduce flood damage, and lessen the potential for contaminating surface water or any water supply.

db. A Watershed Protection Permit containing an ESA assessment of the Drilling and Production ~~drill-s~~Site shall be submitted to the DRC by the ~~Watershed Protection~~

Department approved by the Department of Environmental Services and/or the Floodplain Administrator;

i. For all applicable ESA's prior to the approval of a Gas Well Development Plat or Gas Well Development Site Plan;

1. If a riparian buffer is designated as "fair" to "excellent" ESA, the designated protective stream buffer width as specified in Subchapter 17 of the Denton Development Code shall apply, and no encroachments shall be allowed.

2. 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 fifty (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 twenty-five (25) feet measured each direction from the centerline of the existing channel.

iii. Drill sites shall not be located within any designated ESA riparian buffer. For all floodplain fringe ESAs prior to the approval of a Gas Well Development Site Plan or Plat.

e. Tree mitigation for gas wells located in an ESA shall be required and shall be calculated on a one to one replacement value for one hundred (100) percent of the dbh of trees removed from the Drilling and Production Site. ~~on a one to one replacement value for one hundred (100) percent of the 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 ~~m~~Mitigation Funds that are specific to ESA's 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.

fe. The Watershed Protection Permit application shall contain the following information and such information as may be required by the Development Review Committee which is reasonably necessary to review and determine whether the proposed development and required facilities meet the requirements of this Subchapter and as required by the Application Criteria Manual. The information that is required for the Watershed Protection Permit shall include, but not be limited to:

i. A Tree Inventory Plan shall show the location of ESAs on any proposed Drilling and Production Site. ~~be submitted.~~

- ii. 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 final approval of a Drilling and Production Site into within an ESA.

- iii. ~~Show location of ESAs on proposed Drilling and Production Sites. Tree mitigation for gas wells located in a floodplain fringe or other ESA shall be required and shall be calculated on a one to one replacement value for one hundred (100) percent of the dbh of trees removed from the drill 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 Fund. Tree mitigation funds that are specific to ESA's will be kept separate from other Tree 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.~~

- iv. ~~Tree Mitigation funds shall be paid prior to final approval of a gas Drilling and Production Area in a Flood Fringe or other ESA.~~

- gd. ~~Storage tanks or separation facilities, serving Only one (1) well head, may be placed in the Flood Fringe or ESA under the following conditions:~~
 - i. ~~These facilities Storage tanks or separation facilities shall be constructed at least eighteen (18) inches above the established Base Flood elevation plus the surcharge depth for encroachment to the limits of the floodway having a one (1) percent chance of being equaled or exceeded in any year.~~

 - ii. 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 (100) 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.

iii. No more than ten (10) percent of the floodplain, within the limits of the Gas Well Development Site Plan or Gas Well Development Plat, may be filled.

he. If evidence from water quality monitoring efforts indicates that contamination is occurring from gas wells, the ~~o~~Operator shall remove, cause to be removed, or otherwise remediate contamination, as required by the oil and gas inspector including but not limited to Waste Minimization Practices established by the ~~RR~~Railroad Commission. 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.

~~f. No more than ten (10) percent of the floodplain, within the limits of the gas Drilling and Production Area may be filled.~~

~~g. The provisions of 35.22.5(A)6 and 35.22.5 (A)8 shall apply both within the corporate limits of the City of Denton and within the ETJ of the City of Denton.~~

B. Drilling and ~~p~~Production Sites of gas wells shall comply with all federal, state, and local laws applicable to gas well drilling, production and operations.

C. Noise Management Standards. The following standards apply to gas well drilling and production in the City limits.

1. ~~Prior to the issuance of a Gas Well Drilling and Operating Permit, t~~The Operator shall submit with its Gas Well Development Plat or Site Plan establish and submit to the City, a continuous seventy-two (72) hour pre-drilling Ambient Noise Level measured three hundred (300) feet from the boundaries of the gas well dDrilling or and pProduction sSite. The seventy-two (72) hour time span shall include at least one (1) twenty-four-hour reading during either a Saturday or Sunday.

2. No gas well drilling equipment, production equipment, re-drilling equipment, or any other associated equipment shall be operated at any ~~gas well dDrilling or and pProduction area~~ Site within the City in such a manner so as to create any ~~low-frequency outdoor~~ noise levels that exceeds sixty-five (65) eventy five (75) decibels. when

The dB level shall be measured ~~three hundred (300)~~ at a distance of one thousand (1,000) feet from the boundaries of the gas well dDrilling or and pProduction areaSite or one hundred (100) feet closer than any Protected Use setback line, whichever distance is nearer to the Drilling and Production Site.

3. The ~~three hundred foot~~ distances described in 35.22.5.C.2 shall be measured from the boundaries of the ~~gas well d~~Drilling ~~or and p~~Production ~~s~~Site depicted on the Gas Well Development Plat or Gas Well Development Site Plan, in a straight line, without regard to intervening structures or objects, ~~and outward from the boundary of the Drilling and Production Site. The point of measurement must have a clear line of sight to the Drilling and Production Area.~~
4. If the ambient noise level that was established and submitted to the City in accordance with 35.22.5.C.1 is higher than the levels set forth in 35.22.5.C.2 ~~seventy five (75) decibels~~, the noise generated from the ~~gas well d~~Drilling ~~or and p~~Production ~~area~~ Site may not exceed the established ambient noise level by more than five (5) decibels during daytime hours and three (3) decibels during nighttime hours, except as provided by 35.22.5.C.5 below.
5. The following adjustments to the noise standards as set forth above ~~may be~~ are permitted intermittently during daytime hours only, except in the case of an emergency:

Maximum Permitted Increase above 75 <u>65</u> dB or established ambient, if ambient exceeds 75 <u>65</u> dB	Maximum Duration (minutes)*
10 dB	5 minutes
15 dB	1 minute
20 dB	Less than 1 minute

*Cumulative minutes during any one hour.

6. Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the City may be used to ensure noise limitation compliance. All soundproofing shall comply with accepted industry standards and be subject to approval by the ~~City's Fire Department.~~
7. 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.
8. The noise level generated during gas drilling ~~operations~~activities shall be continuously monitored by the Operator to ensure compliance with the noise

limitation standards established herein, if the Drilling and Production Site is within one thousand (1,000) feet of a Protected Use. The cost of such monitoring shall be borne by the Operator. In addition, the Operator shall also provide the following data: The information from this monitoring shall be provided to the City upon request, in a format that is acceptable to the City. Failure to provide this information within forty eight (48) hours of the request is considered a violation of this subchapter.

- i. The continuous noise monitoring data shall include an audio recording to help identify the source of sound level fluctuations throughout the logging period. The continuous noise monitoring equipment shall be capable of remotely providing real-time noise and audio data in a format acceptable to the Inspector. Access to the real-time data shall be made available to the Oil and Gas Inspector;
 - ii. The continuous noise monitoring data shall also be summarized into a weekly report and submitted to the Oil and Gas Inspector each Monday for the prior Monday through Sunday reporting week, which may be combined with the subsequent week if the number of monitoring days for any given week is three (3) or fewer. The report shall be in an electronic format or other format specified by the Oil and Gas Inspector. The weekly report shall contain all noise data, including pure tones and low frequency readings, and shall be averaged in twenty (20) minute intervals; and
 - iii. The weekly noise report shall state whether the Drilling and Production Site is in compliance with acceptable noise standards. If the report identifies that the Drilling and Production Site is not compliant, then the report shall state the measures being taken to return the site to compliance and the timeframes for implementing these remedial measures.
9. For Drilling and Production Sites not continuously monitored, If a complaint is received after the commencement of gas well drilling activities operations by either the Operator or the City, the Operator shall immediately upon receipt of the complaint, continuously monitor the exterior noise level generated by the gas well drilling or production for a seventy-two (72) hour period and take the action necessary to abate the violation, if a violation exists. The monitoring shall be performed in accordance with 35.22.5.C.8.i. and ii.
10. In the event of a violation of this subsection, the City may immediately issue a citation to the Operator for the violation.

35.22.6. - Gas Well Development Site Plan and Watershed Protection Permit.

A. Applicability.

1. A Gas Well Development Site Plan shall be approved for any land within the City limits before a Gas Well Permit may be issued or any gas well drilling or production

activities may occur. Approval of a Gas Well Development Site Plan authorizes the processing of a complete application for a Gas Well Permit. If applicable, the Watershed Protection Permit application shall accompany the application for a Gas Well Development Site Plan or Gas Well Development Plat, but shall be decided first.

2. 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 floodplain or ESA within the corporate limits ~~or ETJ~~ of the city. 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 floodplain or ESA.

B. Application Requirements—Gas Well Development Site Plan.

1. An application for a Gas Well Development Site Plan shall not be determined to be complete or deemed complete until:
 - a. Any required Specific Use Permit has been approved by the City Council;
 - b. A complete application for a Watershed Protection Permit, where required, has been filed with the City pursuant to this subchapter. ~~Approval of an application for a Gas Well Development Site Plan shall be conditioned on approval of an applicable Watershed p~~Protection Permit, and ~~a~~Any conditions imposed with approval of the Watershed Protection Permit shall be deemed incorporated into the conditions of approval for the Gas Well Development Site Plan.
2. Approval of a Gas Well Development Site Plan authorizes the holder of the approved Site Plan to apply for a Gas Well Permit.
3. An application for a Gas Well Development Site Plan, in addition to those items set forth in Subsection 1, shall:
 - a. Clearly delineate the boundaries of the gas well drilling or production area with metes and bounds description, and list the exact acreage of the area. All gas well drilling and production activities shall be limited to this area.
 - b. Identify all ingress and egress points.
 - c. Show the location of all floodplains and ESAs.
 - d. Show the location of all freshwater wells currently in use at the time of ~~commencement of drilling activity~~ filing of the application within one thousand (1,000) feet of the ~~gas well d~~Drilling and ~~p~~Production ~~s~~Site area.
 - e. Show the location of all structures with a protected use within one thousand (1,000) feet of the ~~gas well d~~Drilling and ~~p~~Production ~~s~~Site area;

- f. Identify and show proposed method of erosion and sediment control;
- g. Identify the location of proposed lease lines;
- h. Identify the location of all proposed gas wells, mud pits, ponds, and mechanical equipment;
- i. Label distances between gas wells and property lines;
- j. Provide site specific well ~~typical well site~~ schematics showing layout during drilling and upon completion of drilling;
- k. Show location of all existing and proposed underground pipelines. As-built drawings shall be filed with the City (in a digital form as specified by the City, and as a condition of maintaining the annual operating permit). All pipelines proposed in public rights-of-way shall require a Right-of-Way Use Agreement. The City Manager shall have the authority to enter into a Right-of-Way Use Agreement;
- l. Show the location of all pipelines and identify if pipelines connect with a Gas Distribution System;
- m. Identify the height, size, bulk and location of all structures, closed-loop systems, dehydrators, parking areas, security cameras, lighting, tanks, tank battery, drilling rigs, separators, compressors, perimeter walls, utilities, and all other features or objects contemplated within the boundaries of the gas well drilling or production area;
- n. Provide a Tree Protection Plan demonstrating compliance with the City's Tree Preservation Code;
- o. Provide a Signage Plan, complying with this Subchapter ~~all requirements of the City~~ for both the Drill Site and pipelines;
- p. ~~When applicable, a~~ A Screening, Fencing, and Landscape Plan, in accordance with the standards established for Industrial land uses in Subchapter 13 of the DDC, detailing compliance with all landscape and screening measures to be taken to adequately irrigate all landscaping including the water source for irrigation and the proposed efforts to replace dead or dying screening vegetation; and
 - ~~q. A Leak Detection and Compliance Plan (LDCP) that addresses methodology to assess and evaluate the impact of drilling, fracturing, production, and other activities at Drilling and/or Production Sites. Specific elements shall include, but are not be limited to: a leak detection monitoring program, methods and equipment for emission measurements, site inspection activities, continuous distance monitoring through SCADA, and a response~~

plan to address issues if they arise, and any other information as required by the Inspector.

rq. A Noise Mitigation Plan that includes:

- i. A description of the proposed facility/operation;
- ii. The established ambient noise level;
- iii. An analysis of any significant sources of noise generated on the Drilling and Production Site; and
- iv. An analysis of any abatement measures necessary to bring the proposed activity into compliance with the City's noise standards.

sr. A Site Reclamation Plan that establishes the existing conditions of the property prior to drilling activities. ~~Operators must close each Drilling and Production Site in a manner that minimizes the need for care after closure. To achieve this requirement, the site shall be reclaimed to the condition identified on the Reclamation Plan, as nearly as practicable. In the event development encroaches up to the property after drilling and production activities, a reasonable rehabilitation alternative may be approved by the City to ensure the reclaimed site is compatible with the surrounding properties.~~ The Site Reclamation Plan shall include both Closure and Post-Closure Plans.

- i. Closure Plan. Site closure includes well plugging and abandonment, equipment removal, and site clean-up. This plan should describe how each how each Drilling and Production Site will be closed, how the proposed final site closure will be achieved, and a detailed description of the closure methods.
- ii. Post-Closure Plan. Post-closure care includes any subsequent activities necessary to minimize the need for care after closure and should describe the anticipated work activities necessary to achieve this objective.

st. The Operator shall submit an Erosion and Sediment Control Plan in accordance with the applicable City Criteria Manual.

t. The Operator shall notify all private freshwater well owners in writing that they have the right to have their wells tested. Proof of such written notice shall be submitted to the City as part of the Site Plan application.

Except as provided in subsection 35.22.6.B.3.u.iii below, a report detailing all private water wells within 1,500 feet of the Drilling and Production Site's boundary and method for which such information was obtained. The report

should include freshwater well sampling pre drilling analysis that meets the following requirements:

i. Water sampling must be collected and analyzed in accordance with established federal sampling and laboratory protocol. All laboratories must be TCEQ or EPA certified laboratories. Pre approval by the City's Environmental Services Director, or designee, of all sampling methods, preservation techniques, analytical methods and contract laboratories is required. This information is required to be submitted with the Drilling Permit application.

ii. At a minimum, the following parameters shall be tested for: methane, chloride, sodium, barium, strontium, total dissolved solids, total suspended solids, and pH. Other parameters may be required at the discretion of the City's Environmental Services Director, or designee.

iii. This freshwater well sampling requirement may be partly or entirely waived if a well(s) is(are) abandoned, or if one or more of the freshwater well owner(s) within 1,500 feet of the Drilling and/or Production Site deny the Operator's request to have the well(s) sampled. The Operator must produce documentary evidence to support that the well(s) is(are) abandoned or that their sample request(s) was(were) denied by the freshwater well owner(s).

u. The Operator shall submit a deed, lease, contract or similar written instrument evidencing the location of the Drilling and Production Site, which document shall be filed with the County Records Department upon approval of the Gas Well Development Site Plan.

v. The Operator shall provide a copy of its Emergency Action Plan if required to prepare one pursuant to federal or state law.

w. Any other information deemed necessary by the Director of Planning and Development Oil and Gas Inspector to verify compliance with these standards.

C. Processing of Applications.

1. An application for a Gas Well Development Site Plan shall be processed in the manner for an application for a gas well development plat, as provided in Section 35.16.19 of the DDC, and shall be decided by the Oil and Gas Inspector.

2. A ~~w~~Watershed ~~p~~Protection ~~p~~Permit shall be processed in accordance with the following:

a. All applications for Watershed Protection Permits shall be filed with the 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 if requested by the applicant. 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.

- b. The DRC may attach such conditions to approval of a Watershed Protection Permit as are necessary to assure that the requirements of Subsection 35.22.5 are met.
- c. Each Watershed Protection Permit approved by the DRC shall:
 - i. Identify the name of each well subject to the permit;
 - ii. Specify the date on which the Permit was issued;
 - iii. Incorporate by reference all applicable standards of approval; and
 - iv. Incorporate by reference all applicable conditions of approval.
- ~~d. The applicant may appeal the denial or conditional approval of a Watershed Protection Permit on grounds pertaining to the standards in Subsection 35.22.5.A.6 and 35.22.5.A.8 to the Planning and Zoning Commission City Council within ten (10) calendar days of the decision by the DRC. The procedure for the appeal shall be as set forth in Section 35.3.10 of the DDC. In deciding the appeal, the City Council The Commission shall decide the appeal decide the appeal based upon the standards in Section 35.3.10 and applying the standards made applicable to the permit by Subsection 35.22.5.A.6 and 35.22.5.A.8.~~
- ~~e. The applicant may file a petition for review pursuant to Subsection 35.22.5.A.6 and 35.22.5.A.8 on grounds therein specified to the City Council within ten (10) calendar days of the decision by the DRC. The Council shall decide the petition based upon the criteria in Subsection 35.22.5.A.6 and 35.22.5.A.8.~~

D. Criteria for Approval.

1. No Gas Well Development Site Plan shall contain more than one (1) ~~d~~Drilling ~~or~~ and ~~p~~Production ~~area~~ Site, and the ~~area~~Drilling and Production ~~s~~Site shall not be greater than five (5) acres in size. All standards in Section 35.22.5 shall be met, and all conditions attached to prior approvals shall be incorporated in the approval of the Gas Well Development Site Plan.
2. The following standards apply to an application for a Watershed Protection Permit:

- a. For land inside the City limits, all conditions imposed by any applicable ~~SUP~~pecific Use Permit, MPC District or a ~~PD~~lanned Development District for the land subject to the Watershed Protection Permit.
 - b. Standards in Subsection 35.22.5(A)6 and 35.22.5(A)8.
3. An Operator shall submit an amended Gas Well Development Site Plan one year after approval if the items required by ~~subsections b., h. i. or m. of 35.22.6.B.3, subsections b., h., i. or m.,~~ are different than those contained in the earlier approved Gas Well Development Site Plan. The Oil and Gas Inspector shall review the amended Gas Well Development Site Plan in accordance with this Subsection D.

E. Expiration.

- 1. A ~~g~~Gas ~~w~~Well ~~d~~Development ~~s~~Site ~~p~~Plan shall automatically expire one (1) year from the date of approval, unless a ~~g~~Gas ~~w~~Well ~~p~~ermit has been issued by the City for the same site.
 - a. A ~~g~~Gas ~~w~~Well ~~d~~Development ~~s~~Site ~~p~~Plan shall not be extended unless a special exception has been approved by the Board of Adjustment pursuant to Section 35.22.16. The applicant may submit a new Gas Well Development Site Plan application for review and approval in accordance with all applicable requirements of the DDC then in effect.
 - b. If the Gas Well Development Site Plan expires, then all permits approved prior to or simultaneous with the site plan for the same activity shall likewise expire on the same date.
- 2. An associated Watershed Protection Permit shall expire with the expiration of the ~~g~~Gas ~~w~~Well ~~d~~Development ~~s~~Site ~~p~~Plan and may not be extended prior to expiration.

35.22.7. - Gas Well Permit Required.

- A. Any person, acting for himself or acting as an agent, employee, independent contractor, or servant for any person, shall not engage in the drilling and production of gas wells within the corporate limits of the City without first obtaining a Gas Well Permit issued under this Subchapter. ~~The requirements of this section shall be construed as an exercise of the City's police power, pursuant to the Texas Constitution, the City's zoning powers, pursuant to City Charter, Tex. Loc. Gov't Code __ Chapter 211 and the provisions of Subchapter 35.5 of the DDCenton Development Code.~~
- B. When a Gas Well Permit has been issued covering a well, the Permit shall constitute authority for drilling, operation, production, gathering of production, maintenance, repair, re-working, testing, site preparation consisting of rigs or tank batteries, plugging and abandonment, and any other activity authorized by this Subchapter associated with drilling or production by the ~~o~~Operator and their respective employees, agents, and

contractors. A Gas Well Permit shall also constitute authority for the construction and use of all facilities reasonably necessary or convenient in connection therewith, including gathering lines and discharge lines, by the Operator and its respective employees, agents, contractors and subcontractors.

C. 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, related to the search for oil, gas, or other sub-surface hydrocarbons. A seismic permit is required for impact-based exploration.

~~D. Any well that has been annexed into the City shall be required to register the Drilling and Production Site with the Oil and Gas Inspector meet the requirements of this Subchapter and shall apply for a Gas Well Permit on within thirty (30) days of the effective date of the annexation. Any well that has obtained a Gas Well Permit issued by the Fire Marshal Oil and Gas Inspector prior to the effective date of this Subchapter shall also register the Drilling and Production Site provide all information required for Gas Well Permits under this Subchapter unless the information has been previously provided to with the Fire Marshal Oil and Gas Inspector. Gas Well Permits issued by the Fire Marshal Oil and Gas Inspector prior to the effective date of this Subchapter shall comply with the following requirements:~~

- ~~1. Standards for Gas Well Drilling and Production requirements of Section 35.22.5~~
- ~~2. Insurance and Security requirements of Section 35.22.8 and Section 35.22.9~~
- ~~3. Periodic reports as required by Section 35.22.11~~
- ~~4. Road Maintenance Agreement or Road Damage Remediation Agreement unless already provided.~~
- ~~5. Notice of Activity requirements of Section 35.22.12~~

~~Any future development of a Drilling and Production Site which constitutes a new "project" under Chapter 245 of the Texas Local Government Code shall be required to comply with all of the standards contained in this Subchapter, the DDC and the City Code, unless the Operator has successfully obtained a vested rights determination as provided in Section 35.22.16 and 35.3.8 of the DDC.~~

~~E~~D. A Gas Well Permit shall not, however, constitute authority for the re-entering and drilling of an plugged and abandoned well. Re-entry and drilling of an plugged and abandoned well shall require a new Gas Well Permit.

~~F~~E. Applications for Gas Well Permits shall be in accordance with the following:

1. Shall be in writing;

2. Shall be on forms provided by the City;
3. Shall be signed by the Operator;
4. Shall include the application fee;
5. Shall include a copy of the applicable ~~SUP~~~~specific Use Permit~~, ~~PD~~~~anned Development Zoning~~ District, or Gas Well Development Site Plan; and
6. Shall include the information required by the Application Criteria Manual unless such information has been previously provided to the City.

35.22.8. - Insurance and Indemnification.

The ~~o~~Operator shall provide or cause to be provided the insurance described below for each well for which a Gas Well Permit is issued, such insurance to continue until the well is abandoned and the site restored. The operator may provide the required coverage on a "blanket basis for multiple wells". Such coverage shall be approved by the Risk Manager for the City of Denton.

A. General Requirements. Indemnification and Express Negligence Provisions.

1. 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 have or may have, or assigns may have, or claim to have, against the City of Denton, and/or its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, relating to or arising out of personal injuries, known or unknown, and injuries 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 and the ~~o~~Operator caused by or arising out of, that sequence of events which occur ~~from~~ ~~the operator~~ under the Gas Well Permit, and work performed by the ~~o~~Operator shall fully defend, protect, indemnify, and hold harmless the City of Denton, Texas, and/or its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers 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 City of Denton, Texas, and/or its departments, agents, officers, servants, or employees, including, without limitation, personal injuries 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 and, the Operator agrees to indemnify and hold harmless the City of Denton, Texas, and/or its departments, and/or its officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the City and/or, its departments, its officers, agents, servants, or employees,

created by, relating to or arising out of the acts or omissions of the City of Denton 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 CITY OF DENTON OCCURRING ON THE DRILLING AND PRODUCTION SITE ~~OR OPERATION 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 CITY OF DENTON, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF DENTON, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE ~~OR CONTRIBUTING~~ 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.

2. All policies shall be endorsed to read "this policy will not be cancelled or non-renewed without thirty (30) days advanced written notice to the owner and the City except when this policy is being cancelled for nonpayment of premium, in which case ten (10) days advance written notice is required".
3. Liability policies shall be written by carriers licensed to do business in Texas and with companies with A: VIII or better rating in accordance with the current Best Key Rating Guide, or with nonadmitted carriers that have a financial rating comparable to carriers licensed to do business in Texas approved by the City.
4. Liability policies shall name as "Additional Insured" the City and its officials, agents, employees, and volunteers.
5. Certificates of insurance shall be presented to the City evidencing all coverage's and endorsements required by this Section 35.22.8, and the acceptance of a certificate without the required limits and/or coverage's shall not be deemed a waiver of these requirements.
6. Claims made policies will not be accepted except for excess policies or unless otherwise provided by this Subchapter.

B. Required Insurance Coverages.

1. Commercial General Liability Insurance.

- a. Coverage should be a minimum Combined Single Limit of one million dollars (\$1,000,000) per occurrence for Bodily Injury and Property Damage. This coverage shall include premises, operations, blowout or explosion, products, completed operations, blanket contractual liability, underground property damage, broad form property damage, independent contractors protective liability and personal injury.
 - b. Environmental Impairment (or Seepage and Pollution) shall be either included in the coverage or written as separate coverage. Such coverage shall not exclude damage to the lease site. If Environmental Impairment (or Seepage and Pollution) Coverage is written on a "claims made" basis, the policy shall provide that any retroactive date applicable precedes the effective date of the issuance of the Permit. Coverage shall apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.
2. Automobile Liability Insurance. Minimum Combined Single Limit of ~~five hundred thousand~~ one million dollars (\$~~51,000,000~~) per occurrence for Bodily Injury and Property Damage. Such coverage shall include owned, non-owned, and hired vehicles.
 3. Worker's Compensation Insurance. In addition to the minimum statutory requirements, coverage shall include Employer's Liability limits of at least one hundred thousand dollars (\$100,000) for each accident, one hundred thousand dollars (\$100,000) for each employee, and a ~~five hundred thousand~~ one million dollars (\$~~51,000,000~~) policy limit for occupational disease, and the insurer agrees to waive rights of subrogation against the City, its officials, agents, employees, and volunteers for any work performed for the City by the operator.
 4. Excess (or Umbrella) Liability Insurance. Minimum limit of ten million dollars (\$10,000,000) covering in excess of the preceding insurance policies.
 5. Control of Well Insurance.
 - a. Minimum limit of five million dollars (\$5,000,000) per occurrence.
 - b. Policy shall cover the Cost of controlling a well that is out of control, Re-drilling or Restoration expenses, Seepage and Pollution Damage. Damage to Property in the Operator's Care, Custody, and Control with a sub-limit of five hundred thousand dollars (\$500,000) may be added.

35.22.9. - Security.

- A. A security instrument that covers each well shall be delivered to the ~~Fire Marshal~~ Oil and Gas Inspector before the issuance of the Gas Well Permit for the well. The instrument

shall provide that it cannot be cancelled without at least thirty (30) days' prior written notice to the City and, if the instrument is a performance bond, that the bond cannot be cancelled without at least ten (10) days' prior written notice for non-payment of premium. The instrument shall secure the obligations of the operator related to the well to:

1. Repair damage, excluding ordinary wear and tear, if any, to public streets, including but not limited 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 Gas Well Permit;
2. Comply with the insurance and security provisions set forth in Section 35.22.8 and Section 35.22.9; ~~and~~
3. Pay fines and penalties imposed upon the operator by the City for any breach of the Gas Well Permit; ~~and~~;
4. Comply with Site Reclamation and Leak Detection and Compliance requirements.

B. The security instrument may be in the form of an irrevocable letter of credit or payment bond issued by a bank or surety approved by the City. The instrument shall run to the City for the benefit of the City, shall become effective on or before the date the Gas Well Permit is issued, and shall remain in effect until the well is abandoned and the site restored.

C. A certificate of deposit may be substituted for the letter of credit or payment bond. The certificate shall be issued by a bank in Denton County, Texas, shall be approved by the City, shall be payable to the order of the City to secure the obligations of the ~~o~~Operator described above, and shall be pledged to the bank with evidence of delivery provided to the Director of Planning and Community Development. Interest on the certificate shall be payable to the operator.

~~D.~~—The security instrument may be provided for an individual well, or for multiple wells on ~~each a single pad~~ Drilling and Production sSite. The amount of the security shall be determined by the City Engineer, with due regard to the costs and risks to be secured in subsection A, above, either on a per-application basis, or as administratively established and amended in the Application Criteria Manual, in the minimum amount of ~~fifty one~~ hundred thousand dollars (\$~~5~~100,000.00) for ~~any~~ single well on the site, two hundred thousand dollars (\$200,000) for two (2) to four (4) wells on the same site, or ~~one~~ three hundred thousand dollars (\$~~1~~300,000.00) for 5 or more multiple wells on the same pad site.

E. The security will terminate when the Oil and Gas Inspector confirms ~~consents in writing~~ that one of the following events has occurred:

1. ~~the Gas Well Permit is transferred, with respect to the operator transferor and if and~~ the Operator-transferee provides replacement security that complies with this section; or;

E. ~~2. when the well is plugged and abandoned and the site restored, and when the Fire Marshal consents in writing to such termination.~~

F. An appeal of the determination of the amount of security required under this Subchapter may be made to the Planning and Zoning Commission for recommendation to the City Council for final determination of the amount of security.

35.22.10. - Review of Permits for Gas Well Drilling and Production.

A. All applications for Gas Well Permits shall be filed with the 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 if requested by the applicant. The City shall retain a processing fee determined by ordinance. 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 Gas Well Permit shall be approved under this Section unless the property owner or applicant first receives approval of:

1. ~~A SUPpecific Use Permit~~, where required, a Detailed Plan in a ~~Planned Development (PD)~~ district, or a site-specific authorization in a ~~Master Planned Community (MPC)~~ district;
2. A Watershed Protection Permit, where applicable; and
3. A Gas Well Development Site Plan.

Denial or conditional approval of any such applications shall be grounds for denial or conditional approval of the Gas Well Permit.

B. The DRC shall review each application ~~within 15 days after acceptance for filing~~ consistent with the procedures set forth in 35.16.8 and shall determine:

1. Whether the application includes all of the information required by this ~~s~~Subchapter;
2. Whether the application is in conformance with the applicable Gas Well Development Site Plan, applicable ~~SUPpecific Use Permit, MPCaster Planned Community Zoning District~~ or ~~PDlanned Development Zoning District~~; and
3. Whether the application is in conformance with the insurance and security requirements set forth in Subsection 35.22.8 and Subsection 35.22.9.

~~C. The Fire Marshal Oil and Gas Inspector shall review the application and the written report of the DRC and shall issue the Gas Well Permit after receiving the DRC report within ten (10) days or determine that the application is not in conformance with the applicable Gas Well Development Site Plan, applicable Specific Use Permit, Detailed Plan in a Planned Development (PD) district, or site specific authorization in a Master Planned Community (MPC) district. The Fire Marshal Oil and Gas Inspector may employ a technical advisor under the Fire Code.~~

~~DC.~~ The Fire Marshal Oil and Gas Inspector may not condition the release of the approved Gas Well Permit ~~upon~~ until after the ~~Operator~~ has provideding:

1. the security required by Subsection 35.22.9;
2. ~~and upon the~~ Operator entering into a Road Damage Remediation Agreement that will obligate the operator to repair damage excluding ordinary wear and tear, if any, to public streets, including but not limited 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; and
3. a copy of the recordable instrument filed with the County Records Department as required by Subsection 35.22.6.B.3.u.

~~ED.~~—The failure of the DRC or the ~~Fire Marshal~~ Oil and Gas Inspector to review and issue a Gas Well Permit within the time limits specified above shall not cause the application for the Permit to be deemed approved.

~~FE.~~ Each Gas Well Permit issued by the ~~Fire Marshal~~ Oil and Gas Inspector shall:

1. Identify the name of each well and its ~~Operator~~;
2. Specify the date on which the ~~Fire Marshal~~ Oil and Gas Inspector issued each Permit;
4. Specify the date by which drilling shall commence, ~~on at least one (1) well covered by the Permit otherwise the Permit expires (such date shall not be less than one (1) 6 months year after the date of issuance). A one (1) year extension of time may be granted if existing conditions are the same;~~
4. Specify that if drilling is commenced ~~on at least one (1) well covered by the Permit before the Permit expires, the Permit shall continue until the wells covered by the Permit are~~ is abandoned and the site restored;
5. Incorporate, by reference, the insurance and security requirements set forth in Subsection 35.22.8 and Subsection 35.22.9;

6. Incorporate, by reference, the requirement for periodic reports set forth in Subsection 35.22.11 and for Notice of Activities set forth in Subsection 35.22.12;
 7. Incorporate the full text of the release of liability provisions set forth in Subsection 35.22.8.5-A.1;
 8. Incorporate, by reference, the conditions of the applicable Watershed Protection Permit, Gas Well Development Site Plan, and applicable SUP~~pecific Use Permit~~, MPC~~aster Planned Community Zoning District~~, or PD~~anned Development Zoning District~~, and Gas Well Ordinance applicable at the initiation of the gas well drilling and production project;
 9. Incorporate, by reference, the information contained in the Permit application;
 10. Incorporate, by reference, the applicable rules and regulations of the RRC~~ailroad Commission~~, including the applicable "field rules";
 11. Specify that no drilling operations (including the construction of internal private access roads) shall commence until the operator has provided the security required by Subsection 35.22.9;
 12. Contain 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~~
 - ~~13. 13.~~ Incorporate by reference all permits and fees required by the Fire Code;
 14. Incorporate the well's RRC permit number and the American Petroleum Institute (API) number;
 15. Incorporate, by reference all other applicable provisions set forth in the DDC; and
 16. 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, is true and correct.
 17. Contain a statement that the Operator is required to comply with all applicable federal and state laws and regulations, which the City will verify compliance as part of its periodic inspections.
- F. The decision of the ~~Fire Marshal~~ Oil and Gas Inspector to deny an application for a Gas Well Permit shall be provided to the operator in writing within ten (10) days after the decision, including an explanation of the basis for the decision, ~~if requested by the operator. The operator may appeal any such denial to the Construction Review Board.~~

G. If an application for a Gas Well Permit is denied by the ~~Fire Marshal~~ Oil and Gas Inspector, nothing herein contained shall prevent a new Permit application from being submitted to the City for the same well.

H. Expiration of Gas Well Permit.

1. A Gas Well Permit is valid for six (6) months and shall automatically expire, unless gas well drilling and production activities have commenced prior to expiration. ~~If gas drilling activities have commenced under a valid permit, the permit shall be renewed annually, subject to all applicable standards and the payment of all associated fees.~~
2. If a Gas Well Permit has been issued by the City but gas well drilling and production activities have not commenced prior to the expiration of the permit, the permit shall not be extended unless a special exception has been approved by the Board of Adjustment pursuant to 35.22.16; however, the ~~Operator~~ Operator may reapply for a new permit, ~~subject to all requirements of the DDC then in effect.~~
3. If gas well drilling and production ~~has~~ commenced prior to the expiration of the Gas Well Permit issued by the City, the permit shall continue, and Operator shall be subject to an Annual Inspection and Administration fee.
4. If gas well drilling ~~or~~ and production activities have commenced following issuance of a Gas Well Permit by the City before the expiration date, the approved ~~d~~ Drilling and p Production area Site and all activities shall be subject to inspections by the City to ensure compliance with terms and conditions of the Gas Well Permit and all applicable standards of the DDC.

35.22.11. - Periodic Reports.

- A. ~~The Operator~~ shall notify the ~~Fire Marshal~~ Oil and Gas Inspector of any changes to the following information ~~immediately~~, within one (1) business day after the change occurs.
1. The name, address, and phone number of the ~~Operator~~ Operator;
 2. The name, address, and twenty-four (24)-hour phone number of the person(s) with supervisory authority over ~~the dDrilling or and operations activities~~ 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 Response Plan ~~if required to file one pursuant to federal or state law, including "drive-to-maps" from public rights-of-way to each drill site, in accordance with 29 CFR 1910.38. At a minimum, the plan must include the following elements:~~

~~— i. Means of reporting fires and other emergencies;~~

~~Evacuation procedures and emergency escape route assignments;~~

~~Procedures to be followed by employees who remain to operate critical plant operations before they evacuate;~~

~~— iv. Procedures to account for all employees after an emergency evacuation has been completed;~~

~~— v. Rescue and medical duties for those employees who are to perform them; and~~

~~— vi. Names or job titles of persons who can be contacted for further information or explanation of duties under the plan.~~

B. The ~~o~~Operator shall provide a copy of any "incident reports" or written complaints submitted to the ~~RRC~~ Railroad Commission or any other state or federal agency within thirty (30) days after the operator has notice of the existence of such reports or complaints. This includes the recording of both reportable and non-reportable events as noted in Texas Administrative Code, Title 30.

~~C.~~

C. ~~Beginning on the January~~ Beginning on the January ~~December 31st~~ December 31st after each well is ~~spude~~ spud completed, and continuing on each ~~December 31st~~ January thereafter until the operator notifies the ~~Fire Marshal~~ Oil and Gas Inspector that the well has been plugged and abandoned and the Drilling and Production ~~s~~Site restored, the operator shall prepare a written report to the ~~Fire Marshal~~ Oil and Gas Inspector 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.

D. ~~The Operators must provide a copy annual reports to the Oil and Gas Inspector all reports otherwise filed with the TCEQ in connection with an installed vapor recovery unit as described in to ensure compliance with 35.22.5.A.2.en., and shall provide periodic compliance information when requested by the City.~~ 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 Oil and Gas Inspector.

E. ~~The Operator shall provide the submit to 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. within fifteen (15) days of the test~~ 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 Oil and

Gas Inspector, or after the form is processed by the RRC and made available to the Operator, whichever timeframe is applicable.

F. The Operator shall submit a copy of a soil sampling analysis as required by Subsection 35.22.5.A.2.q upon request by the Oil and Gas Inspector.

G. In addition to the records listed in Subsections 35.22.5.A.6.k.i and 35.22.11.B, 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 Oil and Gas Inspector.

35.22.12. - Notice of Activities.

A. Any person Operator who intends to perform the following activities: (1) drill a well; (2) re-work a well using a drilling rig; (23) to fracture stimulate a well after initial completion; (4) perform flow back operations; (5) plug a well; (6) perform any other maintenance at a Drilling and Production Site; or (37) to conduct seismic exploration not involving explosive charges; shall give written notice to the City at least ten (10) two (2) days before the activities begin. Road Damage Remediation Fees shall be paid to the City and submitted with the Notice of Activities.

B. All dwellings within one thousand (1,000) feet of a well shall be notified a minimum of forty-eight (48) hours prior to the activities fracturing of a wellhead.

C. 1. 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.

2. The notice shall also provide the address and twenty-four (24)-hour phone number of the person conducting the activities.

CE. The person Operator conducting responsible for the activities shall will post a sign at the entrance of on the property Drilling and Production Site giving the public notice of the activities, including the name, address, and twenty-four (24)-hour phone number of the person conducting the activities.

D. If upon receipt of the notice the City determines that an inspection by the Fire Marshal Oil and Gas Inspector is necessary, the operator will pay the City's customary charge for the inspection.

E. Surface Casing.

1. The Operator shall notify the Inspector within 24 hours of setting surface casing.

2. Casing procedures shall follow RRC Rule 3.13, or any successor regulation.

F. If a proposed Drilling and Production Site is located within one thousand (1,000) feet of a protected use, the Operator shall also host a public meeting at a location accessibly convenient to surrounding property owners and residents at least ten (10) days, but no more than forty-five (45) days, prior to either: (1) the public hearing held by the Planning and Zoning Commission in connection with an SUP application, or (2) the submission of a Gas Well Development Site Plan if an SUP is not required. The Operator must provide written notice of the meeting to all property owners located within one thousand (1,000) feet of the proposed Drilling and Production Site. A mailing list that identifies each property and property owner shall be submitted to the Oil and Gas Inspector for proof of compliance with this requirement. The meeting should provide information regarding planned activities and timelines for the site and must provide an opportunity for citizens to ask questions about the proposed site. All notification and meeting costs shall be borne by the Operator.

G. All surrounding property owners, businesses and residents within one thousand (1,000) feet of a Drilling and Production Site shall be notified a minimum of forty-eight (48) hours prior to fracturing of a wellhead. In addition, at least two (2) business days before fracturing operations commence, the Operator shall post a sign at the entrance of the site advising the public of the date the operations will begin and send notice to the City.

35.22.13. - Amended Gas Well Permits.

A. An ~~Operator~~ may submit an application to the ~~Fire Marshal~~ Oil and Gas Inspector to amend existing ~~Gas Well~~ Permits to:

1. Commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) the existing permit;
2. To relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing Gas Well ~~Permit~~; or
3. To otherwise amend the existing Gas Well ~~Permit~~, for land subject to the same approved Gas Well Development Site Plan.

B. Applications for amended Gas Well Permits shall be in writing, shall be on forms provided by the Department of Planning and Development, shall be signed by the operator, and shall include the following:

1. The application fee as set by City ordinance;
2. A description of the proposed amendments;
3. Any changes to the information submitted with the application for the existing Gas Well Permit (if such information has not previously been provided to the City);

4. Such additional information as is reasonably required by the Fire Marshal Oil and Gas Inspector to demonstrate compliance with the applicable Gas Well Development Site Plan, applicable SUPspecific Use Permit or PDPlanned Development Zoning District; and
 5. Such additional information as is reasonably required by the Fire Marshal Oil and Gas Inspector to prevent imminent destruction of property or injury to persons.
- C. All applications for amended Gas Well Permits shall be filed with the Department of Planning and Development, and the Department shall immediately forward all applications to the Fire Marshal Oil and Gas Inspector for review. Incomplete applications may be returned to the applicant, in which case the City shall provide a written explanation of the deficiencies; however, the City may retain a processing fee as determined by the Fire Marshal Oil and Gas Inspector. The City may return any application as incomplete if there is a dispute pending before the RRCrailroad Commission regarding the determination of the eOperator.
- D. If the activities proposed by the amendment are not materially different from the activities covered by the existing Gas Well Permit or Gas Well Development Site Plan, and if the proposed activities are in conformance with the applicable Watershed Protection Permit, Gas Well Development Site Plan, applicable SUPspecific Use Permit or Detailed Plan in a Planned Development (PD) d District, or site-specific authorization in a Master Planned Community (MPC) d District, then the Fire Marshal Oil and Gas Inspector shall approve the amendment within ten (10) days after the application is filed.
- E. If the activities proposed by the amendment are materially different from the activities covered by the existing gas well permit, and if the proposed activities are in conformance with the applicable Watershed Protection Permit, Gas Well Development Site Plan, applicable SUPspecific Use Permit or Detailed Plan in a Planned Development (PD) d District, or site-specific authorization in a Master Planned Community (MPC) d District, then the Fire Marshal Oil and Gas Inspector shall approve the amendment within thirty (30) days after the application is filed. In addition, if the activities proposed by the amendment are materially different or, in the judgment of the Fire Marshal Oil and Gas Inspector, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing permit or that was not otherwise taken into consideration by the existing permit, the Fire Marshal Oil and Gas Inspector may require the amendment to be processed as a new Gas Well Permit application.
- F. The failure of the Fire Marshal Oil and Gas Inspector to review and issue an amended Gas Well Permit within the time limits specified above shall not cause the application for the amended Permit to be deemed approved.
- G. The decision of the Fire Marshal Oil and Gas Inspector to deny an amendment to a Gas Well Permit shall be provided to the operator in writing within ten (10) days after the

decision, including an explanation of the basis for the decision. The operator may appeal any such denial ~~to the City Council~~ in accordance with Section 35.22.16.A.1.

35.22.14. - Transfer of Gas Well Permits.

A Gas Well Permit may be transferred by the ~~Operator without~~ 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 Section 35.22.8 and Section 35.22.9. 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.

35.22.15. - Inspection.

- A. ~~The Fire Marshal and/or the~~ Oil and Gas Inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this Subchapter. Failure of any person to comply with any such order or directive shall constitute a violation of this Subchapter.
- B. ~~The Fire Marshal or the~~ Oil and Gas Inspector shall have the authority to enter and inspect any premises covered by the provisions of this subchapter, to determine compliance with its provisions, and all applicable laws, rules, regulations, standards, or directives of any local state or federal authority.
- C. Pursuant to inspection authority granted by the Texas Clean Air Act and the Texas Water Code, ~~the~~ Oil and Gas Inspector shall conduct periodic inspections of all wells permitted under this Subchapter.
- D. Inspections may include periodic evaluations of air quality, both on, and at the boundary of, Drilling and/or Production Sites. Inspections will also include an evaluation of Operator conformance with their Hazardous Materials Management Plan and other applicable requirements to their site.

35.22.16. — Vested Rights/ Preemption Determination.

Any Operator who believes that he has obtained a vested right under Chapter 245 of the Texas Local Government Code or other applicable vesting law, or that state or federal law preempts certain areas of City authority as exercised in this Subchapter, may request a vested rights/preemption determination in accordance with Section 35.3.8 of the DDC.

35.22.167. – Appeals Appeals and variances.

- A. Procedures.

1. The Board of Adjustment shall hear and decide appeals of orders, decisions, or determinations made by the Oil and Gas Inspector relative to the application and interpretation of this Subchapter, except for those matters described in Sections 35.22.4.F.346 and 35.22.178; furthermore the Board of Adjustment shall hear and decide requests for variances to the provisions of this Subchapter under the criteria set forth below. The Board may also grant a special exception extending the expiration date of a Gas Well Development Site Plan or a Gas Well Permit for a period not to exceed one year pursuant to the criteria set forth below. Any Operator who desires to appeal the type of action described in this subsection or to file a variance Subsections A. or B. above may file an appeal or variance to the Board of Adjustment pursuant to procedural process outlined in Section 35.3.6-C of the DDC. Appeal fees shall be required for every appeal or variance request, which fees shall be assessed per well. The Board of Adjustment shall review the appeal or variance and any other related information.

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 the issuance or non-issuance of a Gas Well Permit.

b. Standard of review for variances.

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 town;

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;
 - vi. Whether the drilling of the maximum number of potential wells for the proposed drill site would conflict with the orderly growth and development of the town;
 - vii. Whether there are other alternative well site locations;
 - viii. Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the oil, gas, or combined well permit conditions to be imposed;
 - ix. Whether the operations proposed are consistent with protecting the ecological integrity and environmental quality, including protection of surface and ground water sources, of potentially impacted environmentally sensitive areas;
 - x. Whether there is reasonable access for town fire personnel and firefighting equipment, including the ability to safely evacuate potentially affected residents; and
 - xi. Whether the impact upon the adjacent property(ies) and the general public by operations conducted in compliance with the oil, gas, or combined well permit conditions are reasonable and justified, balancing the following factors:
 - 1. The reasonable use of the mineral estate by the mineral estate owner(s) to explore, develop, and produce the minerals; and
 - 2. The availability of alternative drilling sites.
- c. The Board of Adjustment shall determine whether to grant an extension of the expiration date 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 Permit, 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 Permit expires.

£2. The Board of Adjustment may reverse or affirm, in whole or in part, or modify the ~~Oil and Gas~~ Inspector's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination. The Board of Adjustment may issue a variance to the applicant under the criteria referenced in Subsection A.1.b., and may grant a special exception under the criteria referenced in A.1.c. Any action under this subsection, ~~including the issuance of any variance authorized by this article,~~ shall require a three-fourths majority vote of the entire Board of Adjustment~~oil and gas board of appeals.~~

£3. Any Operator 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 ten 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 Texas Local Government Code, § 211.011, as amended.

B. Watershed Permit Appeals.

1. The applicant may appeal the denial or conditional approval of a Watershed Protection Permit on grounds pertaining to the standards in Subsection 35.22.5.A.6 and 35.22.5.A.8 to the Planning and Zoning Commission within ten (10) calendar days of the decision by the DRC. In deciding the appeal, the Planning and Zoning Commission shall decide the appeal based upon the standards made applicable to the permit by Subsection 35.22.5.A.6 and 35.22.5.A.8.

2. The applicant may file a petition for review pursuant to Subsection 35.22.5.A.6 and 35.22.5.A.8 on grounds therein specified to the City Council within ten (10) calendar days of the decision by the Planning and Zoning Commission. The Council shall decide the petition based upon the criteria in Subsection 35.22.5.A.6 and 35.22.5.A.8.

C. Preemption Appeal.

1. **Purpose.** The regulation of gas well drilling and production in this subchapter potentially overlaps with regulation of gas well drilling and production by the State of Texas and the United States of America. The purpose of this section is to afford Operators the opportunity to demonstrate to the City that one or more standards or procedures contained in this subchapter are preempted by state or federal law.

2. **Petition Contents.** An Operator who is aggrieved by the promulgation or application of the standards or procedures in this subchapter and who claims that one or more such standards or procedures are preempted by state or federal law shall

submit a petition to the Oil and Gas Well Inspector explaining the factual and legal bases upon which the Operator relies to support his contention that a regulation in this subchapter is preempted. The petition shall be accompanied by an unconditional waiver of any statutory time periods or time periods established by ordinance for review of any filed applications which are the subject of the petition. The petition shall include, at a minimum, the following:

- a. The name, mailing address, phone number and fax number of the person (or the person's duly authorized agent);
- b. Identification of all property owned or under the control of the Operator that is affected by the preemption claim;
- c. Identification of the permit applications for which the applicant seeks relief under this section;
- d. Identification of all regulations in this subchapter that the petitioner contends do not apply to the project due to preemption of the subject matter by state or federal law;
- e. For each regulation in this subchapter that is the subject of the Operator's preemption claim, specification of the state or federal law, standard, administrative rule or order that allegedly preempts the regulation, together with an explanation of why such law, standard, administrative rule or order preempts the regulation.

3. Procedure and Decision.

The Oil and Gas Inspector shall first determine whether the application is complete pursuant to DDC section 35.16.8. Once the application has been determined to be or is deemed complete, the Director shall forward the preemption petition, together with the required supporting information or documentation, to the City Manager and City Attorney for their respective reviews. Prior to rendering his final determination, the City Manager may request a pre-determination conference with the petitioner to discuss the preemption claim and to ensure that the nature of the claim is fully and completely understood by the City Manager. The City Manager, after consultation with the City Attorney, shall render a final administrative determination that grants the relief requested in the petition in whole or in part, or denies the requested relief in whole or in part within 30 days of the date the petition is complete. The City Manager's determination shall include a statement of the reasons for the decision, and shall identify the regulations that are preempted on their face or as applied to the petitioner's permit application(s) for approval under this subchapter. The City Manager may also recommend to the City Council that one or more regulations contained in this subchapter should be repealed or modified so as to avoid other preemption claims.

35.22.1786. - Remedies of the City.

- A. If an Operator (or its officers, employees, agents, contractors, subcontractors or representatives) fails to comply with any requirement of a Gas Well Permit (including any requirement incorporated by reference as part of the Permit), the Fire Marshal or Oil and Gas Inspector ~~shall~~ may, in connection with or separate from 35.22.187, 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 cure, and the potential impact on the health, safety, and welfare of the community. The Operator shall respond in writing within forty-eight (48) hours and indicate how the violation(s) shall be cured. In no event, however, shall the cure period be less than thirty (30) days unless the alleged failure presents a risk of imminent destruction of property or injury to persons or unless the alleged failure involves the operator's failure to provide periodic reports. The Fire Marshal or Oil and Gas Inspector may issue a Stop Work Order under the Fire Code.
- B. If the Operator does not cure the alleged failure within the time specified by the Fire Marshal and/or Oil and Gas Inspector, the Fire Marshal and/or Oil and Gas Inspector may notify the ~~RRC Railroad Commission~~ and request that the ~~RRC Railroad Commission~~ take appropriate action (with a copy of such notice provided to the operator), and the City may pursue any other remedy available.
- C. If the operator does not cure the alleged failure within the time specified by the Fire Marshal and/or Oil and Gas Inspector, the ~~Fire Marshal and/or Oil and Gas Inspector~~ may upon recommendation of the ~~Construction Advisory Board~~ Health and Building Standards Commission:
1. Recommend to the City Council that the Gas Well Permit be suspended until the alleged failure is cured; or,
 2. ~~If the Operator fails to initiate and diligently pursue a cure~~ Recommend to the City Council that the Gas Well Permit be revoked, if after prior suspension the Operator does not cure the alleged failure.
- D. The decision of the Fire Marshal and/or Oil and Gas Inspector to recommend suspension or revocation of a Gas Well Permit shall be provided to the Operator in writing at least ten (10) days before any action by the City Council unless the alleged failure present a risk of imminent destruction of property or injury to persons.
- E. If a Gas Well Permit is revoked, the Operator may submit information to the Oil and Gas Well Inspector evidencing that the alleged failure resulting in the revocation of the Gas Well Permit have been corrected, and an application for a new Gas Well Permit may be submitted for the same well.

35.22.1897. - Enforcements, Right of Entry.

- A. The Fire Marshal and the Oil and Gas Inspector are authorized and directed to enforce this Subchapter and the provisions of any Gas Well Permit. Whenever necessary to enforce any provision of this Subchapter or a Gas Well Permit, or whenever there is reasonable cause to believe there has been a violation of this Subchapter or a Gas Well Permit, the Fire Marshal or Oil and Gas Inspector, may enter upon any property covered by this Subchapter or a Gas Well Permit at any reasonable time to inspect or perform any duty imposed by this Subchapter. 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 Subchapter;
 - 2. Fail to comply with any conditions set forth in a Gas Well Permit issued under this Subchapter; or
 - 3. Violate any provision or requirement set forth under this Subchapter.
- C. The enforcement and penalty provision under Subsection 35.1.10.4 shall apply to a violation of this Subchapter.
- D. The Fire Marshal or Oil and Gas Inspector is authorized to issue citations into municipal court for violations of this Subchapter 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 Subchapter.

35.22.1. - 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 prevent deleterious uses of groundwater resources that actually or potentially threaten the health of persons in proximity to drilling and production activities; to prevent or moderate noxious emissions of gases that potentially threaten the health of nearby residents and employees; to prevent injury to persons and property; 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 this Subchapter 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 this Subchapter 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 generate noxious aerial emissions, introduce contaminants into groundwater, 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 and destabilization of property values in the vicinity of such operations.
 3. The City of Denton recognizes that the United States and the State of Texas regulate gas well drilling and production activities for the purpose of implementing broad air quality and water quality goals. The regulations in this Chapter are intended to supplement such standards in order to implement compatible local objectives that assure the health, safety and general welfare of the City's residents and businesses.
- B. **Authority.** This Subchapter 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 shall be construed as an exercise of the City's zoning powers, pursuant to the Denton City Charter, Texas Local Government Code Chapters 211 and 212 and the provisions of Subchapter 35.5 of the Denton Development Code (DDC).
- C. **Applicability.** The provisions of this Subchapter apply only within the corporate limits of the City of Denton, except as otherwise stated in section 35.16.19 of the DDC.

35.22.2. - Definitions.

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined shall have the meanings customarily attributable thereto by prudent operators in the gas industry. For the purposes of this Subchapter, the following definitions, without regard to whether the defined terms are capitalized when used, shall apply unless the context clearly indicates or requires a different meaning.

Ambient Noise Level. An all-encompassing noise level associated with a given environment. A composite of sounds from all sources (excluding the noise in question) at the location and approximate time at which a comparison with the noise in question is to be made. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location. The ambient noise level is established by recording sounds from all sources (excluding the noise in question) over a continuous seventy-two (72) hours period at the location prior to drilling. The seventy-two (72) hour time span shall include at least one twenty-four (24) hour reading during either a Saturday or Sunday.

Blowout Preventer (BOP). A mechanical, hydraulic, or pneumatic apparatus, or combination of such apparatus, that can be secured over top of an open wellbore, or drill pipe or casing tubular that, via remote actuators, can be actuated remotely in the event that an emergency well control situation arises. The primary function of the BOP is to shut the well and to regain pressure control of the formation fluids from blowing out of the well.

Closed-loop mud system. A system that uses a combination of solids control equipment incorporated in a series of steel tanks that eliminates the use of a pit.

Commencement of Drilling Activities. The reflection of either "Spud Well" or "Nipple Up" the Blow Out Protectors (BOP) by the drilling contractor on the IADC-API Daily Drilling Report Form maintained by the Operator's tool pusher on the pad site.

Completion combustion device. Any ignition device, installed horizontally or vertically, used in exploration and production operations to combust otherwise vented emissions from completions.

Completion of drilling, re-drilling and re-working. The date the work is completed for drilling, re-drilling, or re-working, and the crew is released by completing its work or contracted by its employer.

Contaminant. Any substance capable of contaminating a non-related homogeneous material, fluid, gas or environment. **Daytime.** The period from 7:00 am to 7:00 pm., Monday through Friday; and from 8:00 am to 5:00 pm., Saturdays and Sundays.

Delineation well. A well drilled in order to determine the boundary of a field or producing reservoir.

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, most critically, to maintain an overbalanced pressure gradient against the formation that may contain inherently pressurized well fluids.

Drilling and Production Site (A/K/A Gas Well Park, Gas Well Pad Site, and Drilling and Production Area). The area dedicated to all gas well drilling or production activities, or both, including the drilling and production area, all structures, closed-loop systems, dehydrators, parking areas, security cameras, lighting, tanks, tank battery (or any other tank grouping area), drilling rigs, separators, compressors, perimeter walls, utilities, and all other features or objects contemplated for use during and after gas well drilling or production activities, as designated on the Gas Well Development Plat or Gas Well Development Site Plan. Excluded from this definition are gathering and transmission lines and compressor stations.

Drill Site. The area used for drilling, completing, or re-working a well.

Emergency Action Plan (EAP). A written document which includes a set of procedures intended to guide an organization's response to an accident or emergency.

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.

Field Natural Gas. Natural gas extracted from a production well prior to entering the first stage of processing, such as dehydration.

Flowback. The process of allowing fluids to flow from a natural gas 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 begins when material introduced into the well during the treatment returns to the surface immediately following hydraulic fracturing or refracturing. The flowback period ends with either well shut in or when the well is producing continuously to the flow line or to a storage vessel for collection, whichever occurs first.

Freshwater Well. A private water well used by a protected use.

Gas. Gas or natural gas, as such terms are used in the rules, regulations, or forms of the RRC. Typically, a naturally-occurring gaseous substance primarily composed of methane and other light, gaseous hydrocarbons.

Gas Processing Facility. A processing 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 Production (A/K/A Production). The phase that occurs after successful exploration, drilling and development involving operations including, but not limited to, gas wells, tanks, dehydrators, separators, mud pits, ponds, tank batteries or associated mechanical equipment, and during which hydrocarbons are extracted from the gas field, excluding those operations and

facilities as defined and regulated by the Pipeline Safety Act of 1994, 49 U.S.C. §§ 60101—60137.

Gas Well. Any well drilled for the production of gas or classified as a gas well under the Texas Natural Resources Code.

Gas Well Permit. Any written license granted by the City of Denton for the exploration, drilling, development, production, and operation of natural gas, issued pursuant to rules and regulations of this Subchapter. A Gas Well Permit is required for each well.

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 single or multi-family dwellings, accessory guest houses, hotels, condominium buildings, public buildings, and enclosed buildings used for commercial or industrial purposes. A habitable structure shall not include non-habitable accessory buildings, mobile homes, 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. The process of directing pressurized fluids containing any combination of water, proppant, 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 Refracturing. Conducting a subsequent hydraulic fracturing operation at a well that has previously undergone a hydraulic fracturing operation.

Lift Compressor. A mechanized device that compresses gas prior to its introduction into a well for use in lifting well liquids 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.

Line Compressor. An electrical or gas-powered-pumping device that increases the pressure of natural gas so that its pressure exceeds that of the inherent line pressure of the pipe to which it is being introduced.

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. In well construction, a liner is a tubular sheath employed downhole for a variety of purposes, such as isolating a particular zone, repairing casing leaks, augmenting the integrity of the hole size, among others.

Low pressure gas well. A well with reservoir pressure and vertical well depth such that 0.445 times the reservoir pressure (in psia) minus 0.038 times the vertical well depth (in feet) minus 67.578 psia is less than the flow line pressure at the sales meter.

New Well. A well bore drilled from surface or new lateral wellbore drilled from an existing vertical pilot hole at a depth different from other laterals in the same well; or a section of an existing well that is purposefully deviated or “kicked-off” around an abandoned lower section of the initial hole. Not to be confused with recompletion.

Nighttime. The period commencing at 7:00 p.m. and ending at 7:00 a.m., Monday through Friday and from 5:00 p.m. to 8:00 a.m., Saturdays and Sundays.

Nipple Up. The process of assembling well-control or pressure-control equipment on the wellhead.

Oil and Gas Inspector or Inspector. An inspector 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. Also responsible for processing and approving Gas Well Development Plat, Gas Well Development Site Plan and Gas Well Permit applications.

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.

Petroleum Specialist. A person familiar with and educated in the oil and gas industry who has been retained by the City.

Pit. A temporary or permanent containment for circulated fluids. A pit shall include:

Completion/Workover pit: Pit used for storage or disposal of spent completion fluids, workover fluids and drilling fluid, silt, debris, water, brine, oil scum, paraffin, or other materials which have been cleaned out of the wellbore of a well being completed or worked over.

Drilling fluid disposal pit: Pit, other than a reserve pit, used for disposal of spent drilling fluid.

Fresh makeup water pit: Pit used in conjunction with drilling rig for storage of water used to make up drilling fluid.

Mud circulation pit: Pit used in conjunction with drilling rig for storage of drilling fluid currently being used in drilling operations.

Reserve pit: Pit used in conjunction with drilling rig for collecting spent drilling fluids; cuttings, sands, and silts; and wash water used for cleaning drill pipe and other equipment at the well site. Reserve pits are sometimes referred to as slush pits or mud pits.

Saltwater disposal pit: Pit used for disposal of produced saltwater.

Washout pit: Pit located at a truck yard, tank yard, or disposal facility for storage or disposal of oil and gas waste residue washed out of trucks, mobile tanks, or skid-mounted tanks.

Water Condensate pit: Pit used in conjunction with a gas pipeline drip or gas compressor station for storage or disposal of fresh water condensed from natural gas.

Plugging and Abandonment. “Plugging” as defined by the RRC and includes the plugging of the well, abandoned, orphaned or otherwise, and restoration of the Drilling and Production Site as required by this Subchapter.

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 or public recreation center.

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

Reduced emissions completion. A well completion following fracturing or refracturing where gas flowback that is otherwise vented is captured, cleaned, and routed to the flow line or collection system, re-injected into the well or another well, used as an on-site fuel source, or used for other useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.

Re-working. Re-completion or re-entry of an existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than one hundred fifty (150) feet from the existing well bore, or replacement of well liners or casings.

Site-specific authorization means the prior approval by ordinance of 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 Code or as specified within the site approval ordinance (or both), as applicable.

Spud. The first time the drill bit enters the ground for gas well drilling and production.

Tank. A natural or man-made container, covered or uncovered, in which to store, contain or mix liquids or hydrocarbons used or produced in conjunction with the drilling, stimulation or production operations of an oil or gas well.

Technical advisor. Such person(s) familiar with and educated in the oil and gas industry or the law as it relates to oil and gas matters who may be retained from time to time by the City of Denton.

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

Well completion. The process that allows for the flowback of petroleum or natural gas from newly drilled wells to expel drilling and reservoir fluids and tests the reservoir flow characteristics, which may vent produced hydrocarbons to the atmosphere via an open pit or tank.

Well completion operation. Any well completion with fracturing or refracturing occurring at a gas well affected facility.

Wildcat well. A well outside known fields or the first well drilled in an oil or gas field where no other oil and gas production exists.

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.

35.22.3. - Zoning District Classifications for Gas Well Drilling and Production.

- A. The drilling and production of gas within the corporate limits of the City shall be permitted by right within the Rural Residential (RD-5) or within any unzoned area of the City that is subject to the use regulations of the RD-5 District, Rural Commercial (RC), Neighborhood Residential 1 (NR-1), Neighborhood Residential 2 (NR-2), Regional Center Commercial Neighborhood (RCC-N), Regional Center Commercial Downtown (RCC-D), Employment Center Commercial (EC-C), Employment Center Industrial (EC-I), Industrial Center Employment (IC-E) and Industrial Center General (IC-G) Zoning Districts, except as provided in subsection B, and subject to compliance with the requirements of this Subchapter.
- B. The drilling and production of gas within the corporate limits of the City in all other zoning districts shall be permitted only by Specific Use Permit pursuant to subchapter 35.6, or through approval of a Detailed Plan in a Planned Development (PD) district, or site-specific authorization in Master Planned Community (MPC) district. Notwithstanding the provisions of Subsection A, approval of a Specific Use Permit also shall be required for gas well drilling and production on any land located within the 100-year flood fringe or within one thousand, two hundred (1,200) feet of the flood pool elevation of Lake Ray Roberts or Lake Lewisville.
 - 1. An application for a Specific Use Permit, or site-specific authorization in a planned development district (PD) or master planned community district (MPC), for the drilling and production of a gas well shall be filed by the person having legal

authority to do so. That person is presumed to be the record owner, mineral owner, or the duly authorized agent of either the record owner or the mineral owner. The Director of Planning and Development may require an applicant to submit information of authority to file an application.

2. The Chairman of the DRC has the authority to establish requirements for applications in the Application Criteria Manual. No application shall be accepted for filing until it is complete and the fee established by the City Council of the City of Denton has been paid. Incomplete applications shall be returned less a fee for processing determined by the Director of Planning and Development.
3. Approval of a SUP, a detailed plan in a PD District or site-specific authorization in a MPC district, shall be conditioned on compliance with the requirements of this Subchapter.

35.22.4. - Required Authorization for Gas Well Drilling and Production in City Limits.

- A. No gas well 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 Specific Use Permit, where required by Section 35.22.3.B, approval of a Detailed Plan in a PD district, or site-specific authorization in a MPC district;
 2. Approval of a Watershed Protection Permit, where location of any gas well drilling or production activities is proposed on land in the flood fringe or in an Environmentally Sensitive Area (ESA), subject to the application requirements and standards of Section 35.22.5.A.8;
 3. Approval of a Gas Well Development Site Plan, subject to the application requirements and standards of Section 35.22.6; and
 4. Approval of a Gas Well Permit, subject to the application requirements and standards of Section 35.22.7.
- B. An application for any authorization for gas well drilling and production listed in Subsection A may be submitted simultaneously with any other listed application, but the applications must be 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. Approved applications for gas well drilling and production shall expire under the following circumstances:
 1. A Specific Use Permit, or site-specific authorization in a PD district or MPC district, expires according to its terms;

2. A Watershed Protection Permit expires with the expiration of a Gas Well Development Site Plan.
 3. A Gas Well Development Site Plan expires unless a complete application for a Gas Well Permit has been filed within one (1) years of the date of approval of the site plan.
 4. A Gas Well Permit expires if gas well drilling activities have not commenced within six (6) months of the date of approval of the Gas Well Permit.
 5. The expiration of any subsequent application results in the expiration of all prior approved applications for the same activity.
- D. Approved applications for gas well drilling and production may not be extended prior to expiration. Following expiration of an approved application for gas well drilling and production, a new application must be submitted, which shall be subject to all DDC standards and procedures then in effect.
- E. 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 or by any other government agency.
- F. Legal Non-Conformity; Exceptions.
1. The provisions of Subchapter 11 are applicable to gas well drilling and production activities. For purposes of Subchapter 11, the drilling of a new gas well and associated production activities do not constitute an existing use. Every Operator of a Drilling and Production Site that has been annexed into the City shall register the Drilling and Production Site within 30 days of the effective date of the annexation.
 2. Unless the City determines that an exemption provided under Texas Local Government Code, Section 245.004 or successor statute applies to an amendment to the standards and procedures in DDC Subchapters 35.16, 35.22 and 35.23, or that Texas Local Government Code, Chapter 245 otherwise is inapplicable to permits for gas well drilling and production, such standards or procedures, except to the extent necessary to give effect to this subsection F, do not apply to the authorizations identified in subsection 35.22.4.A, if, on the effective date of such amendatory ordinance, the following circumstances existed:
 - a. For a specific use permit, an application was pending on the effective date of the amendatory ordinance; or
 - b. For a detailed plan for a PD district created on or after April 27, 2005, an application for the detailed plan was pending on the effective date of the amendatory ordinance; or

- c. For a detailed plan for a PD district created on or after April 27, 2005, but before the effective date of the amendatory ordinance, an application for the detailed plan submitted after the effective date of the amendatory ordinance was pursuant to a conceptual plan for development approved with the ordinance establishing the PD district that identifies the location and the nature and extent of the activities to be developed on land designated for future gas well drilling or production; or
 - d. For a Gas Well Development Site Plan or Gas Well Development Plat (including any associated Watershed Protection Permits), an application was pending on the effective date of the amendatory ordinance; or
 - e. For a Gas Well Development Site Plan or Gas Well Development Plat (including any associated Watershed Protection Permits), an application was submitted after the effective date of the amendatory ordinance for a Drilling and Production Site that was the subject of: (1) a specific use permit approved or pending on the effective date of the amendatory ordinance; or (2) a detailed plan for a PD district created on or after April 27, 2005, but before the effective date of the amendatory ordinance, that identifies the location and the nature and extent of the activities to be developed on land designated for future gas well drilling or production; or (3) an MPC district created on or after April 27, 2005, but before the effective date of the amendatory ordinance, that identifies the location and the nature and extent of the activities to be developed on land designated for future gas well drilling or production.
 - f. For a Gas Well Permit, an application was pending on the effective date of the amendatory ordinance; or
 - g. For a Gas Well Permit, an application was submitted after the effective date of the amendatory ordinance pursuant to a Gas Well Development Site Plan or Gas Well Development Plat approved or pending on the effective date of the amendatory ordinance that identifies the Drilling and Production Site to which the application applies.
3. Authorizations or applications excepted under this subsection 2 are subject to all gas well drilling and production standards in effect immediately prior to the effective date of the amendatory ordinance, and to any standards or procedures effected by the amendatory ordinance which the City determines to be exempt from the application of Texas Local Government Code Chapter 245.
4. To the extent that any exception provided under this subsection 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.
5. Any person who has been denied an exception under Subsection 2 for one or more pending applications, or who otherwise claims that he has obtained a vested right pursuant to Texas Local Government Code, Chapter 245 or other applicable vesting

law for such applications, may request a determination pursuant to Section 35.3.8 of the DDC.

35.22.5. - Standards for Gas Well Drilling and Production.

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

1. **Separation standards.** The following requirements apply only within City limits.

- a. No Drilling and Production Site may be located within one thousand (1,000) feet of any Protected Use, or freshwater well currently in use at the time a complete application for a Gas Well Development Site Plan is filed, or within one thousand (1,000) feet of any lot within a previously platted residential subdivision where one (1) or more lots have one (1) or more habitable structures.
- b. Except where more stringent separation distances are specified, the minimum separation distance between a Drilling and Production Site and all other habitable structures other than those listed in 35.22.5.A.1.a, shall be five hundred (500) feet.
- c. The minimum separation requirement established in 35.22.5.A.1.a above may be reduced via the granting of a variance by the Zoning Board of Adjustment. Except that the Zoning Board of Adjustment shall not reduce the minimum separation distance any less than five hundred (500) feet.
- d. In lieu of 35.22.5.A.1.c above, the standards established in 35.22.5.A.1.a and b may be reduced if all the owners of the Protected Uses, all owners of property with a freshwater well currently in use at the time a complete application for a Gas Well Development Site Plan is filed, and all owner of lots in a previously platted residential subdivision where one (1) or more lots have one (1) or more habitable structures within the reduced separation area, consent to the reduction via a notarized waiver, and the notarized waiver is attached to the permit application. However, the minimum separation distance shall not be reduced to less than two hundred and fifty (250) feet, via the notarized waiver.
- e. Notwithstanding any other provision of this subsection, a Protected Use or lot within a previously platted residential subdivision where one (1) or more lots have one (1) or more habitable structures may be located as close as two hundred fifty (250) feet of a pre-existing Drilling and Production Site, provided that the lots or Protected Use is not served by a freshwater well that is located within one thousand (1,000) feet of the drilling and production area.
- f. Separation distances shall be measured from the boundary of the Drilling and Production Site identified on the Gas Well Development Site Plan, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any structure occupied by a Protected Use, or freshwater well currently in

use at the time a complete application for a gas well development site plan is filed, or the closest lot line of any undeveloped lot within a previously platted residential subdivision where one (1) or more lots have one (1) or more structures.

2. **On-site requirements.** The following requirements apply only within City limits.
 - a. An entrance gate shall be required. Street lighting shall be required pursuant to Section 26-76 of the Utility Code of the Code of the City of Denton, Texas or the sign identifying the entrance to the drill site or operation site shall be reflective.
 - b. 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 one-hundred and eighty (180) days after initial drilling of the first approved well. Should the Operator decide to fence in gathering and transmission lines or compressor stations, or both, Operator shall install the fencing in accordance Subchapter 13 of the DDC.
 - c. 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 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.
 - d. Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED", in both English and Spanish, in a minimum of four-inch lettering shall be posted at the entrance of each Drilling and Production Site. The sign shall include the development or operating company that is currently responsible for the gas well plat or site plan, the RRC Well Identification Number and the American Petroleum Institute number for the well, the phone number for emergency services (911), the number for the operator, and any other well designation required by the RRC in two-inch lettering.
 - e. 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.
 - f. 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:

- i. 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.
- ii. All exposed surfaces of the identified equipment must be coated and painted, and free from rust, blisters, stains, or other defects.
- g. All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding areas or subdivision.
- h. All fire suppression and prevention equipment required by any applicable federal, state, or local law shall be provided by the Operator, at the Operator's cost, and maintenance and upkeep of such equipment shall be the responsibility of the Operator.
- i. 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, with other ordinances of the City, and with the specifications established by the Engineering Department.
- j. 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 limits of public right-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.
- k. No Gas Well Permit shall be issued for any well to be drilled within any of the streets or alleys of the City and/or streets or alleys shown by The Denton Plan, 1999-2020 and no street shall be blocked or encumbered or closed due to any exploration, drilling, or production activities unless prior consent is obtained by the City Manager, and then only temporarily.
- l. All pits shall be lined and shall be designed, constructed, and installed in accordance with the liner standards set forth by the RRC. Any new Drilling and Production Sites proposed after December 18, 2012 shall utilize a closed-loop mud system.

- m. Any Drilling and Production Sites shall be screened with an opaque decorative masonry fence that shall be no less than eight (8) feet in height.
 - i. In lieu of this requirement, an alternative fence that is compatible with the area surrounding the Drilling and/or Production Site may be approved by the Director of Planning and Development.
 - ii. Required fencing must be located within three hundred (300) feet of all equipment necessitating fencing requirements under this Subchapter.
- n. Vapor Recovery Units.
 - i. Vapor recovery equipment is required for facilities not included under Rule§106.352 of TAC Title 30, Part 1, Chapter 106, Subchapter O; or its successor regulation.
 - ii. An Operator shall notify the Oil and Gas Inspector within two (2) days after the first sale of gas from a well.
- o. Any lift compressor which is installed within an approved Drilling and Production Site shall be located at least twenty-four (24) feet from the outer boundary of the site.
- p. Commencing on the December 18, 2012, except as provided in sub-paragraph (v) of this section, for each well completion operation with hydraulic fracturing:
 - i. For the duration of flowback, recovered liquids shall be routed into one or more storage vessels or re-injected into the well or another well, and the recovered gas shall be routed into a gas flow line or collection system, re-injected into the well or another well, used as an on-site fuel source, or used for another useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere. If this is infeasible, the requirements in sub-paragraph (iii) of this paragraph shall be followed.
 - ii. All salable quality gas shall be routed to the gas flow line as soon as practicable. In cases where flowback emissions cannot be directed to the flow line, the requirements in sub-paragraph (iii) of this section shall be followed.
 - iii. Flowback emissions shall be captured and directed to a completion combustion device, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact waterways. Completion combustion devices must be equipped with a reliable continuous ignition source over the duration of flowback.

- iv. Releases to the atmosphere during flowback and subsequent recovery shall be minimized.
- v. The requirements of sub-paragraphs (i) and (ii) shall not apply to:
 - 1. Each well completion operation with hydraulic fracturing at a gas well meeting the criteria for wildcat or delineation well.
 - 2. Each well completion operation with hydraulic fracturing at a gas well meeting the criteria for non-wildcat low pressure gas well or non-delineation low pressure gas well.
- q. Soil sampling: Pre- and post-drilling; periodic soil sampling. Soil sampling shall be required for all new Drilling and Production Sites. Soil sampling shall be subject to the following requirements:
 - i. Upon application for an Oil and Gas Well Permit, soil sampling shall be conducted prior to the commencement of any drilling at the proposed Drilling and Production Site to establish a baseline study of site conditions. A minimum of one soil sample shall be taken at the location of any proposed equipment to be utilized at the Drilling and Production Site to document existing conditions at the Drilling and Production Site.
 - ii. A licensed third party consultant shall be utilized to collect and analyze all pre-drilling and post-drilling soil analyses. The cost of such consultant shall be borne by the Operator.
 - iii. Soil samples must be collected and analyzed utilizing proper sampling and laboratory protocol from a United States Environmental Protection Agency or Texas Commission on Environmental Quality approved laboratory. The results of the analyses will be addressed to the City and a copy of the report shall be provided to the Operator and surface estate owner. The analyses will include the following analyses at a minimum: TPH, VOCs, SVOCs, Chloride, Barium, Chromium and Ethylene Glycol.
 - iv. Post-drilling soil samples shall be collected and analyzed after the conclusion of drilling of each well. Subsequent to the drilling of each well, periodic soil samples shall be taken as determined by the Oil and Gas Inspector during inspection events to document soil quality data at the Drilling and Production Site. Samples shall include, but not be limited to, areas where removed equipment was located. Results of the analyses shall be provided as described in Subsection A.2.q.iii.
 - v. Whenever abandonment occurs pursuant to the requirements of the RRC and as referenced in 35.22.5.A.6.k, the Operator so abandoning shall conduct post production soil sampling within three (3) days after equipment has been removed from the Drilling and Production Site to document that the final

conditions are within regulatory requirements. Results of the analyses shall be provided as described in Subsection A.2.q.iii.

vi. If any soil sample results reveal contamination levels that exceed the minimum state or federal regulatory levels, the City shall submit the soil sample results to the appropriate state or federal regulatory agency for enforcement.

r. Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least 150 feet from the vicinity of any well, tank, or pump station.

s. An Operator shall not maintain or use any pit for storage of oil or oil products or oil field fluids, or for storage or disposal of oil and gas wastes.

3. **Operations and equipment practices and standards.** The following requirements apply only within City limits.

a. Adequate nuisance prevention measures shall be taken to prevent or control offensive odor, fumes, dust, noise and vibration.

b. Directional lighting shall be provided for the safety of gas well drilling, completion and production operations and shall be installed and operated in a fashion designed to disturb adjacent developments in the least possible manner.

c. The Operator shall at all times comply with the applicable rules and regulations of the RRC including but not limited to all applicable Field Rules.

d. To address noise concerns, only electric motors shall be used for the purpose of drilling, transferring or blending chemicals, compressing gas, lifting or pumping wells, The Oil and Gas Inspector may approve the use of an alternative motor that produces lower noise levels than an electric motor.

e. There shall be no venting or flaring of gases in residential areas except as allowed by the RRC or TCEQ. If venting or flaring is allowed by the RRC or TCEQ, the activities shall not be located closer than one thousand (1,000) feet from any protected use, unless: (1) a setback variance has been granted pursuant to 35.22.5; or (2) if practical and if approved by the City Fire Marshal, ground flaring that is wholly enclosed or screened with a masonry wall. .

f. Vehicles, equipment, and machinery shall not be placed or located on a Drilling and Production Site (or on any public street, alley, driveway, or other public right-of-way) in such a way as to constitute a fire hazard or to unreasonably obstruct or interfere with fighting or controlling fires.

g. Only Light Sand Fracture Technology or fracture stimulations approved by the RRC shall be used to fracture stimulate a well.

- h. Fracing operation shall be scheduled to occur during daylight hours unless the Operator has notified the Oil and Gas Inspector that fracing will occur before or after daylight hours to meet safety requirements.
 - i. Pneumatic drilling shall not be permitted.
 - j. Any notices required herein shall be made pursuant to Subsection 35.22.12
 - k. Except in the case of an emergency, gas well flaring shall only be conducted during day-time hours.
4. **Storage tanks and separators.** The following requirements apply only within City limits.
- 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 as shown on the applicable Gas Well Development Site Plan.
 - c. No Drilling and Production Site is allowed in the FEMA designated one hundred (100) year floodway. A Drilling and Production Site is allowed within one thousand two hundred (1,200) feet of the flood pool elevation of Lake Ray Roberts or Lake Lewisville with an approved Specific Use Permit.
 - d. No storage tanks or separation facilities shall be placed in the Flood Fringe or other ESA except in accordance with Subsection 35.22.5.A.8.
5. **Flow lines and gathering lines.**
- a. Each Operator shall place 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 H₂S (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.

6. **Additional safety and environmental requirements.** The provisions of_ this section shall apply within the corporate limits of the City of Denton.
- a. The drilling and production of gas and accessing the Drilling and Production Site shall be in compliance with all state and federal environmental regulations. No gas well development or activity is allowed in the FEMA designated one hundred (100) year floodway. Drilling within Flood Fringe or other ESA shown on the Map adopted by the City is allowed under the restrictions set forth in Section 35.22.5.A.8.
 - b. 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.
 - c. As an exception to 35.22.5.A.6.a. or a Specific Use Permit required by 35.22.3.B, gas wells may have a target location or bottom-hole location that is under the floodway, an ESA or within one thousand two hundred (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.
 - d. 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.
 - e. 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.
 - f. All storage tanks shall be anchored for stability.
 - g. All storage tanks shall be equipped with either steel or concrete secondary containment systems including lining with an impervious material. The secondary containment system shall be of a sufficient height to contain one and one-half (1½) times the contents of the largest tank in accordance with the Fire Code. Drip pots shall be provided at pump out connections to contain the liquids from the storage tank.
 - h. 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 twenty-four (24)-hour rainfall as determined by a twenty-five (25)-year storm and provisions shall be made to drain accumulations of ground water and rainfall.
 - i. 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 remote foam line and a lightning arrestor system.

- j. A Hazardous Materials Management Plan shall be on file with the Fire Marshal. Any updates or changes to this plan shall be provided to the Fire Marshal within three (3) working 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 storm water and weather elements.
- k. All wells shall be plugged and abandoned in accordance with the rules of the RRC; however, all well casings shall be cut and removed to a depth of at least ten (10) feet below the surface unless the surface owner submits a written agreement otherwise. Three (3) feet shall be the minimum depth. In addition, the Operator shall:
 - i. 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 (2) business days of filing with the RRC;
 - ii. Notify the Oil and Gas Inspector of the intention to plug and abandon a well at least twenty-four (24) hour prior to commencing activities; and
 - iii. Submit to the Oil and Gas Inspector 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.
 - iv. Submit a copy of a soil sampling analysis as required by Subsection 35.22.5.A.2.q.
- l. Operators must close each Drilling and Production Site in a manner that minimizes the need for care after closure. To achieve this requirement, the site shall be reclaimed to the condition identified on the Site Reclamation Plan, as nearly as practicable. In the event development encroaches up to the property after drilling and production activities, a reasonable rehabilitation alternative may be approved by the City to ensure the reclaimed site is compatible with the surrounding properties.

- m. No gas well drill sites shall be allowed on slopes greater than ten (10) percent.
- n. No salt-water disposal wells shall be located within the City of Denton.
- o. No gas well permit will be issued for any well where the Drilling and Production Site is located within one thousand (1,000) feet of an existing fresh water well, unless a variance, or consent from neighboring property owners, has been obtained per 35.22.5.A.1.
- p. Pits shall always be operated with a minimum of at least two (2) feet of freeboard above the contents within it.
- q. For safety reasons, fencing shall be installed to restrict access to a reserve pit or other type of open pit utilized in gas well drilling operation at a drill site within the corporate limits of the City.
- r. 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 potential leak, discharge, or otherwise spill hazardous or solid materials. .
- s. After the well has been completed, or plugged and abandoned, the Operator shall clean and repair all damage to public property caused by such operations within thirty (30) days.
- t. 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.
- u. 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 outside the Drilling and Production Site .
- v. All pits associated with Drilling and Production Sites shall adhere to the following requirements.
 - i. The type of pit used in drilling operations shall be specified at the time of permitting. The Oil and Gas Inspector may perform a contamination assessment for any reserve pit, completion/work-over pit, drilling fluid disposal pit, fresh makeup water pit, mud circulation pit, washout pit, or water condensate pit. The following concentrations for contaminants will be used to determine if contamination exists within any materials in the pits:

Compound	Concentration limit
TPH	15 mg/L
BTEX	500 µg/L
Benzene	50 µg/L
From 30TAC 321.131.138	

If concentrations exceeding these values are detected, the operator shall remove, cause to be removed, or otherwise remediate contaminants, to below the limits provided herein. Cleanup operations shall begin immediately. Cleanup activities that do not begin within twenty-four (24) hours of notification by the oil and gas inspector shall be considered a violation of this Subchapter.

- ii. Only freshwater-based mud systems shall be permitted. Saltwater-based mud systems and oil-based mud systems are prohibited.
- iii. Chloride content of fluids held in pits may not exceed three thousand (3,000) milligrams per liter.
- iv. No metal additives may be added to any drilling fluids.
- v. All fluid produced from the well during completion of production shall be held in enclosed containers while stored on the property.
- vi. All fluids shall be removed ("de-watering") from the pits within thirty (30) days of completion of drilling operations.
- vii. The pit and its contents shall be removed from the premises within ninety (90) days after completion of the drilling of a well; provided, however, that the permittee may apply for a ninety (90)-day extension from such requirements based on showing of good cause, necessity to maintain said pit, inclement weather, or other factors. The City may designate a period of time shorter than the ninety (90)-day extension set out herein.

- w. All pits shall be backfilled in accordance with the following schedule. The Director of Planning and Development may grant permission for a pit to remain at the site if the surface property owner submits a written request.
 - i. Reserve pits and mud circulation pits shall be dewatered within 30 days and backfilled and compacted within ninety (90) days of cessation of drilling activities.
 - ii. All completion/workover pits used when completing a well shall be dewatered within thirty (30) days and backfilled and compacted within one hundred and twenty (120) days of well completion.
 - iii. All completion/workover pits used when working over a well shall be dewatered within thirty (30) days and backfilled and compacted within one hundred and twenty (120) days of completion of re-work operations.
 - iv. Basic sediment pits, flare pits, fresh mining water pits, and water condensate pits shall be dewatered, backfilled, and compacted within one hundred and twenty (120) days of final cessation of use of the pits.
- x. 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.
 - i. 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;
 - ii. If long-term, five (5) to ten (10) years, water storage is anticipated, quantified five-year and ten-year targets for water savings and the basis for the development of such goals;
 - iii. A description of the device(s) and/or method(s) within an accuracy of plus or minus 5.0% to be used in order to measure and account for the amount of water diverted from the source of supply;
 - iv. Leak-detection, repair, and accounting for water loss in the water distribution system;
 - v. Application of state-of-the-art equipment and/or process modifications to improve water use efficiency; and
 - vi. 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.

- y. No gas well drilling and production shall be permitted within twelve hundred (1,200) feet of the flood pool elevation of Lake Ray Roberts or Lake Lewisville, unless the Operator first obtains a SUP.

7. Supplemental drilling.

- a. Supplemental drilling to deepen or directional drill an existing well shall be conducted in accordance with the conditions for the applicable SUP or PD District or underlying zoning classification that permits gas development by right. The operator shall provide the Oil and Gas Inspector a copy of additional RRC permits that allow drilling to a deeper depth.
- b. Supplemental drilling to deepen or directional drill an existing well shall be conducted in accordance with the approved Gas Well Permit for the well on file with the City.

8. Watershed Protection Requirements for Wells located in Flood Fringe or other ESA's.

The standards in this subsection are adopted pursuant to the authority granted by Texas Local Government Code, Section 551.002 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.

- a. The provisions of 35.22.5.A.6 and 35.22.5.A.8 shall apply to a Drilling and Production Site required to have a Watershed Protection Permit within the corporate limits of the City of Denton. The provisions of 35.22.5.A.8 shall apply to a Drilling and Production Site required to have a Watershed Protection Permit located within the corporate limits of the City of Denton or within the ETJ of the City of Denton.
- b. Drilling and Production Sites shall be located outside 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.
- c. Prior to location of any gas well in the Flood Fringe or ESA, the property owner or applicant shall first obtain approval of an application that meets the criteria of the Application Criteria Manual for a Watershed Protection Permit and shall comply with the provisions of 35.22.5.
- d. A Watershed Protection Permit containing an ESA assessment of the Drilling and Production Site shall be approved by the Department of Environmental Services:
 - i. For all ESAs prior to the approval of a Gas Well Development Plan:

1. If a riparian buffer is designated as "fair" to "excellent" ESA, the designated protective stream buffer width as specified in Subchapter 17 of the Denton Development Code shall apply, and no encroachments shall be allowed.
 2. 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 fifty (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 twenty-five (25) feet measured each direction from the centerline of the existing channel.
- ii. For all flood fringe ESAs prior to the approval of a Gas Well Development Site Plan or Plat.
- e. Tree mitigation for gas wells located in an ESA shall be required and shall be calculated on a one to one replacement value for one hundred (100) percent of the 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 ESA's 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.
 - f. The Watershed Protection Permit application shall contain the following information and such information as may be required by the Development Review Committee which is reasonably necessary to review and determine whether the proposed development and required facilities meet the requirements of this Subchapter and as required by the Application Criteria Manual. The information that is required for the Watershed Protection Permit shall include, but not be limited to:
 - i. A Tree Inventory Plan shall show the location of ESAs on any proposed Drilling and Production Site.
 - ii. 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 final approval of a Drilling and Production Site within an ESA.
 - iii. Show location of ESAs on proposed Drilling and Production Sites.

- g. Only one (1) well head may be placed in the Flood Fringe or ESA under the following conditions:
 - i. Storage tanks or separation facilities shall be constructed at least eighteen (18) inches above the established Base Flood elevation plus the surcharge depth for encroachment to the limits of the floodway having a one (1) percent chance of being equaled or exceeded in any year.
 - ii. 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 (100) 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.
 - iii. No more than ten (10) percent of the floodplain, within the limits of the Gas Well Development Site Plan or Gas Well Development Plat, may be filled.
 - h. 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 oil and gas inspector 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.
- B. Drilling and Production Sites shall comply with all federal, state, and local laws applicable to gas well drilling, production and operations.
- C. Noise Management Standards. The following standards apply to gas well drilling and production in the City limits.
- 1. The Operator shall submit with its Gas Well Site Plan a continuous seventy-two (72) hour pre-drilling Ambient Noise Level measured three hundred (300) feet from the

boundaries of the Drilling and Production Site. The seventy-two (72) hour time span shall include at least one (1) twenty-four-hour reading during either a Saturday or Sunday.

2. No gas well drilling equipment, production equipment, re-drilling equipment, or any other associated equipment shall be operated at any Drilling and Production Site within the City in such a manner so as to create any noise level that exceeds sixty-five (65) decibels.

The dB level shall be measured at a distance of one thousand (1,000) feet from the boundaries of the Drilling and Production Site or one hundred (100) feet closer than any Protected Use setback line, whichever distance is nearer to the Drilling and Production Site.

3. The distances described in 35.22.5.C.2 shall be measured from the boundaries of the Drilling and Production Site depicted on the Gas Well Development Plat or Gas Well Development Site Plan, in a straight line, without regard to intervening structures or objects, and outward from the boundary of the Drilling and Production Site.
4. If the ambient noise level that was established and submitted to the City in accordance with 35.22.5.C.1 is higher than the levels set forth in 35.22.5.C.2, the noise generated from the Drilling and Production Site may not exceed the established ambient noise level by more than five (5) decibels during daytime hours and three (3) decibels during nighttime hours, except as provided by 35.22.5.C.5 below.
5. The following adjustments to the noise standards as set forth above are permitted intermittently during daytime hours only, except in the case of an emergency:

Maximum Permitted Increase above 65 dB or established ambient, if ambient exceeds 65 dB	Maximum Duration (minutes)*
10 dB	5 minutes
15 dB	1 minute
20 dB	Less than 1 minute

*Cumulative minutes during any one hour.

6. Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the City may be used to ensure noise limitation compliance. All soundproofing shall comply with accepted industry standards and be subject to approval by the City.
7. 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.
8. The noise level generated during gas drilling activities shall be continuously monitored by the Operator to ensure compliance with the noise limitation standards established herein, if the Drilling and Production Site is within one thousand (1,000) feet of a Protected Use. The cost of such monitoring shall be borne by the Operator. In addition, the Operator shall also provide the following data:
 - i. The continuous noise monitoring data shall include an audio recording to help identify the source of sound level fluctuations throughout the logging period. The continuous noise monitoring equipment shall be capable of remotely providing real-time noise and audio data in a format acceptable to the Inspector. Access to the real-time data shall be made available to the Oil and Gas Inspector;
 - ii. The continuous noise monitoring data shall be summarized into a weekly report and submitted to the Oil and Gas Inspector each Monday for the prior Monday through Sunday reporting week, which may be combined with the subsequent week if the number of monitoring days for any given week is three (3) or fewer. The report shall be in an electronic format or other format specified by the Oil and Gas Inspector. The weekly report shall contain all noise data, including pure tones and low frequency readings, and shall be averaged in twenty (20) minute intervals; and
 - iii. The weekly noise report shall state whether the Drilling and Production Site is in compliance with acceptable noise standards. If the report identifies that the Drilling and Production Site is not compliant, then the report shall state the measures being taken to return the site to compliance and the timeframes for implementing these remedial measures.
9. For Drilling and Production Sites not continuously monitored, if a complaint is received after the commencement of drilling activities by either the Operator or the City, the Operator shall immediately upon receipt of the complaint, continuously monitor the exterior noise level generated by the gas well drilling or production for a seventy-two (72) hour period and take the action necessary to abate the violation, if a violation exists. The monitoring shall be performed in accordance with 35.22.5.C.8.i and ii.
10. In the event of a violation of this subsection, the City may immediately issue a citation to the Operator for the violation.

35.22.6. - Gas Well Development Site Plan and Watershed Protection Permit.

A. Applicability.

1. A Gas Well Development Site Plan shall be approved for any land within the City limits before a Gas Well Permit may be issued or any gas well drilling or production activities may occur. Approval of a Gas Well Development Site Plan authorizes the processing of a complete application for a Gas Well Permit. If applicable, the Watershed Protection Permit application shall accompany the application for a Gas Well Development Site Plan or Gas Well Development Plat, but shall be decided first.
2. 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 floodplain or ESA within the corporate limits of the city. 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 floodplain or ESA.

B. Application Requirements—Gas Well Development Site Plan.

1. An application for a Gas Well Development Site Plan shall not be determined to be complete or deemed complete until:
 - a. Any required Specific Use Permit has been approved by the City Council;
 - b. A complete application for a Watershed Protection Permit, where required, has been filed with the City pursuant to this subchapter. Any conditions imposed with approval of the Watershed Protection Permit shall be deemed incorporated into the conditions of approval for the Gas Well Development Site Plan.
2. Approval of a Gas Well Development Site Plan authorizes the holder of the approved Site Plan to apply for a Gas Well Permit.
3. An application for a Gas Well Development Site Plan, in addition to those items set forth in Subsection 1, shall:
 - a. Clearly delineate the boundaries of the gas well drilling or production area with metes and bounds description, and list the exact acreage of the area. All gas well drilling and production activities shall be limited to this area.
 - b. Identify all ingress and egress points.
 - c. Show the location of all floodplains and ESAs.
 - d. Show the location of all freshwater wells currently in use at the time of filing of the application within one thousand (1,000) feet of the Drilling and Production Site.

- e. Show the location of all structures with a protected use within one thousand (1,000) feet of the Drilling and Production Site;
- f. Identify and show proposed method of erosion and sediment control;
- g. Identify the location of proposed lease lines;
- h. Identify the location of all proposed gas wells, mud pits, ponds, and mechanical equipment;
- i. Label distances between gas wells and property lines;
- j. Provide site specific well schematics showing layout during drilling and upon completion of drilling;
- k. Show location of all existing and proposed underground pipelines. As-built drawings shall be filed with the City (in a digital form as specified by the City, and as a condition of maintaining the annual operating permit). All pipelines proposed in public rights-of-way shall require a Right-of-Way Use Agreement. The City Manager shall have the authority to enter into a Right-of-Way Use Agreement;
- l. Show the location of all pipelines and identify if pipelines connect with a Gas Distribution System;
- m. Identify the height, size, bulk and location of all structures, closed-loop systems, dehydrators, parking areas, security cameras, lighting, tanks, tank battery, drilling rigs, separators, compressors, perimeter walls, utilities, and all other features or objects contemplated within the boundaries of the gas well drilling or production area;
- n. Provide a Tree Protection Plan demonstrating compliance with the City's Tree Preservation Code;
- o. Provide a Signage Plan, complying with this Subchapter for both the Drill Site and pipelines;
- p. A Screening, Fencing, and Landscape Plan, in accordance with the standards established for Industrial land uses in Subchapter 13 of the DDC, detailing compliance with all landscape and screening measures to be taken to adequately irrigate all landscaping including the water source for irrigation and the proposed efforts to replace dead or dying screening vegetation; and
- q. A Noise Mitigation Plan that includes:

- i. A description of the proposed facility/operation;
 - ii. The established ambient noise level;
 - iii. An analysis of any significant sources of noise generated on the Drilling and Production Site; and
 - iv. An analysis of any abatement measures necessary to bring the proposed activity into compliance with the City's noise standards.
- r. A Site Reclamation Plan that establishes the existing conditions of the property prior to drilling activities. The Site Reclamation Plan shall include both Closure and Post-Closure Plans.
- i. Closure Plan. Site closure includes well plugging and abandonment, equipment removal, and site clean-up. This plan should describe how each Drilling and Production Site will be closed, how the proposed final site closure will be achieved, and a detailed description of the closure methods.
 - ii. Post-Closure Plan. Post-closure care includes any subsequent activities necessary to minimize the need for care after closure and should describe the anticipated work activities necessary to achieve this objective.
- s. The Operator shall submit an Erosion and Sediment Control Plan in accordance with the applicable City Criteria Manual.
- t. The Operator shall notify all private freshwater well owners in writing that they have the right to have their wells tested. Proof of such written notice shall be submitted to the City as part of the Site Plan application.

~~Except as provided in subsection 35.22.6.B.3.u.iii below, a report detailing all private water wells within 1,500 feet of the Drilling and Production Site's boundary and method for which such information was obtained. The report should include freshwater well sampling pre-drilling analysis that meets the following requirements:~~

- ~~i. Water sampling must be collected and analyzed in accordance with established federal sampling and laboratory protocol. All laboratories must be TCEQ or EPA certified laboratories. Pre approval by the City's Environmental Services Director, or designee, of all sampling methods, preservation techniques, analytical methods and contract laboratories is required. This information is required to be submitted with the Drilling Permit application.~~
- ~~ii. At a minimum, the following parameters shall be tested for: methane, chloride, sodium, barium, strontium, total dissolved solids, total suspended~~

~~solids, and pH. Other parameters may be required at the discretion of the City's Environmental Services Director, or designee.~~

~~iii. This freshwater well sampling requirement may be partly or entirely waived if a well(s) is(are) abandoned, or if one or more of the freshwater well owner(s) within 1,500 feet of the Drilling and/or Production Site deny the Operator's request to have the well(s) sampled. The Operator must produce documentary evidence to support that the well(s) is(are) abandoned or that their sample request(s) was(were) denied by the freshwater well owner(s).~~

- u. The Operator shall submit a deed, lease, contract or similar written instrument evidencing the location of the Drilling and Production Site, which document shall be filed with the County Records Department upon approval of the Gas Well Development Site Plan.
- v. The Operator shall provide a copy of its Emergency Action Plan if required to prepare one pursuant to federal or state law.
- w. Any other information deemed necessary by the Oil and Gas Inspector to verify compliance with these standards.

C. Processing of Applications.

1. An application for a Gas Well Development Site Plan shall be processed in the manner for an application for a gas well development plat, as provided in Section 35.16.19 of the DDC, and shall be decided by the Oil and Gas Inspector.
2. A Watershed Protection Permit shall be processed in accordance with the following:
 - a. All applications for Watershed Protection Permits shall be filed with the 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 if requested by the applicant. 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.
 - b. The DRC may attach such conditions to approval of a Watershed Protection Permit as are necessary to assure that the requirements of Subsection 35.22.5 are met.
 - c. Each Watershed Protection Permit approved by the DRC shall:
 - i. Identify the name of each well subject to the permit;

- ii. Specify the date on which the Permit was issued;
- iii. Incorporate by reference all applicable standards of approval; and
- iv. Incorporate by reference all applicable conditions of approval.

D. Criteria for Approval.

1. No Gas Well Development Site Plan shall contain more than one (1) Drilling and Production Site, and the Drilling and Production Site shall not be greater than five (5) acres in size. All standards in Section 35.22.5 shall be met, and all conditions attached to prior approvals shall be incorporated in the approval of the Gas Well Development Site Plan.
2. The following standards apply to an application for a Watershed Protection Permit:
 - a. 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.
 - b. Standards in Subsection 35.22.5.A.6 and 35.22.5.A.8.
3. An Operator shall submit an amended Gas Well Development Site Plan one year after approval if the items required by 35.22.6.B.3, subsections b., h., l. or m., are different than those contained in the earlier approved Gas Well Development Site Plan. The Oil and Gas Inspector shall review the amended Gas Well Development Site Plan in accordance with this Subsection D.

E. Expiration.

1. A Gas Well Development Site Plan shall automatically expire one (1) year from the date of approval, unless a Gas Well Permit has been issued by the City for the same site.
 - a. A Gas Well Development Site Plan shall not be extended unless a special exception has been approved by the Board of Adjustment pursuant to Section 35.22.16. The applicant may submit a new Gas Well Development Site Plan application for review and approval in accordance with all applicable requirements of the DDC then in effect.
 - b. If the Gas Well Development Site Plan expires, then all permits approved prior to or simultaneous with the site plan for the same activity shall likewise expire on the same date.
2. An associated Watershed Protection Permit shall expire with the expiration of the Gas Well Development Site Plan and may not be extended prior to expiration.

35.22.7. - Gas Well Permit Required.

- A. Any person, acting for himself or acting as an agent, employee, independent contractor, or servant for any person, shall not engage in the drilling and production of gas wells within the corporate limits of the City without first obtaining a Gas Well Permit issued under this Subchapter.
- B. When a Gas Well Permit has been issued covering a well, the Permit shall constitute authority for drilling, operation, production, gathering of production, maintenance, repair, re-working, testing, site preparation consisting of rigs or tank batteries, plugging and abandonment, and any other activity authorized by this Subchapter associated with drilling or production by the Operator and their respective employees, agents, and contractors. A Gas Well Permit shall also constitute authority for the construction and use of all facilities reasonably necessary or convenient in connection therewith, including gathering lines and discharge lines, by the Operator and its respective employees, agents, contractors and subcontractors.
- C. 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, related to the search for oil, gas, or other sub-surface hydrocarbons. A seismic permit is required for impact-based exploration.
- D. A Gas Well Permit shall not, however, constitute authority for the re-entering and drilling of a plugged and abandoned well. Re-entry and drilling of a plugged and abandoned well shall require a new Gas Well Permit.
- E. Applications for Gas Well Permits shall be in accordance with the following:
 - 1. Shall be in writing;
 - 2. Shall be on forms provided by the City;
 - 3. Shall be signed by the Operator;
 - 4. Shall include the application fee;
 - 5. Shall include a copy of the applicable SUP, PD District, or Gas Well Development Site Plan; and
 - 6. Shall include the information required by the Application Criteria Manual unless such information has been previously provided to the City.

35.22.8. - Insurance and Indemnification.

The Operator shall provide or cause to be provided the insurance described below for each well for which a Gas Well Permit is issued, such insurance to continue until the well is abandoned and the site restored. The operator may provide the required coverage on a "blanket basis for multiple wells". Such coverage shall be approved by the Risk Manager for the City of Denton.

A. General Requirements. Indemnification and Express Negligence Provisions.

1. 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 have or may have, or assigns may have, or claim to have, against the City of Denton, and/or its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, relating to or arising out of personal injuries, known or unknown, and injuries 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 and the Operator caused by or arising out of, that sequence of events which occur under the Gas Well Permit, and work performed by the Operator shall fully defend, protect, indemnify, and hold harmless the City of Denton, Texas, and/or its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers 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 City of Denton, Texas, and/or its departments, agents, officers, servants, or employees, including, without limitation, personal injuries 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 and, the Operator agrees to indemnify and hold harmless the City of Denton, Texas, and/or its departments, and/or its officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the City and/or, its departments, it's officers, agents, servants, or employees, created by, relating to or arising out of the acts or omissions of the City of Denton 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 CITY OF DENTON 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 CITY OF DENTON, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF DENTON, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, 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.

2. All policies shall be endorsed to read "this policy will not be cancelled or non-renewed without thirty (30) days advanced written notice to the owner and the City except when this policy is being cancelled for nonpayment of premium, in which case ten (10) days advance written notice is required".
3. Liability policies shall be written by carriers licensed to do business in Texas and with companies with A: VIII or better rating in accordance with the current Best Key Rating Guide, or with nonadmitted carriers that have a financial rating comparable to carriers licensed to do business in Texas approved by the City.
4. Liability policies shall name as "Additional Insured" the City and its officials, agents, employees, and volunteers.
5. Certificates of insurance shall be presented to the City evidencing all coverage's and endorsements required by this Section 35.22.8, and the acceptance of a certificate without the required limits and/or coverage's shall not be deemed a waiver of these requirements.
6. Claims made policies will not be accepted except for excess policies or unless otherwise provided by this Subchapter.

B. Required Insurance Coverages.

1. Commercial General Liability Insurance.
 - a. Coverage should be a minimum Combined Single Limit of one million dollars (\$1,000,000) per occurrence for Bodily Injury and Property Damage. This coverage shall include premises, operations, blowout or explosion, products, completed operations, blanket contractual liability, underground property damage, broad form property damage, independent contractors protective liability and personal injury.
 - b. Environmental Impairment (or Seepage and Pollution) shall be either included in the coverage or written as separate coverage. Such coverage shall not exclude damage to the lease site. If Environmental Impairment (or Seepage and Pollution) Coverage is written on a "claims made" basis, the policy shall provide that any retroactive date applicable precedes the effective date of the issuance of the Permit. Coverage shall apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.

2. Automobile Liability Insurance. Minimum Combined Single Limit of one million dollars (\$1,000,000) per occurrence for Bodily Injury and Property Damage. Such coverage shall include owned, non-owned, and hired vehicles.
3. Worker's Compensation Insurance. In addition to the minimum statutory requirements, coverage shall include Employer's Liability limits of at least one hundred thousand dollars (\$100,000) for each accident, one hundred thousand dollars (\$100,000) for each employee, and a one million dollars (\$1,000,000) policy limit for occupational disease, and the insurer agrees to waive rights of subrogation against the City, its officials, agents, employees, and volunteers for any work performed for the City by the operator.
4. Excess (or Umbrella) Liability Insurance. Minimum limit of ten million dollars (\$10,000,000) covering in excess of the preceding insurance policies.
5. Control of Well Insurance.
 - a. Minimum limit of five million dollars (\$5,000,000) per occurrence.
 - b. Policy shall cover the Cost of controlling a well that is out of control, Re-drilling or Restoration expenses, Seepage and Pollution Damage. Damage to Property in the Operator's Care, Custody, and Control with a sub-limit of five hundred thousand dollars (\$500,000) may be added.

35.22.9. - Security.

- A. A security instrument that covers each well shall be delivered to the Oil and Gas Inspector before the issuance of the Gas Well Permit for the well. The instrument shall provide that it cannot be cancelled without at least thirty (30) days' prior written notice to the City and, if the instrument is a performance bond, that the bond cannot be cancelled without at least ten (10) days' prior written notice for non-payment of premium. The instrument shall secure the obligations of the operator related to the well to:
 1. Repair damage, excluding ordinary wear and tear, if any, to public streets, including but not limited 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 Gas Well Permit;
 2. Comply with the insurance and security provisions set forth in Section 35.22.8 and Section 35.22.9;
 3. Pay fines and penalties imposed upon the operator by the City for any breach of the Gas Well Permit; and
 4. Comply with Site Reclamation requirement.

- B. The security instrument may be in the form of an irrevocable letter of credit or payment bond issued by a bank or surety approved by the City. The instrument shall run to the City for the benefit of the City, shall become effective on or before the date the Gas Well Permit is issued, and shall remain in effect until the well is abandoned and the site restored.
- C. A certificate of deposit may be substituted for the letter of credit or payment bond. The certificate shall be issued by a bank in Denton County, Texas, shall be approved by the City, shall be payable to the order of the City to secure the obligations of the Operator described above, and shall be pledged to the bank with evidence of delivery provided to the Director of Planning and Community Development. Interest on the certificate shall be payable to the operator.
- E. The security instrument may be provided for an individual well, or for multiple wells on each Drilling and Production Site. The amount of the security shall be determined by the City Engineer, with due regard to the costs and risks to be secured in subsection A, above, either on a per-application basis, or as administratively established and amended in the Application Criteria Manual, in the minimum amount of one hundred thousand dollars (\$100,000.00) for a single well on the site, two hundred thousand dollars (\$200,000) for two (2) to four (4) wells on the same site, or three hundred thousand dollars (\$300,000.00) for 5 or more wells on the same site. The security will terminate when the Oil and Gas Inspector confirms in writing that one of the following events has occurred:
 - 1. The Gas Well Permit is transferred, and the Operator-transferee provides replacement security that complies with this section; or
 - 2. The well is plugged and abandoned and the site restored.
- F. An appeal of the determination of the amount of security required under this Subchapter may be made to the Planning and Zoning Commission for recommendation to the City Council for final determination of the amount of security.

35.22.10. - Review of Permits for Gas Well Drilling and Production.

- A. All applications for Gas Well Permits shall be filed with the 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 if requested by the applicant. The City shall retain a processing fee determined by ordinance. 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 Gas Well Permit shall be approved under this Section unless the property owner or applicant first receives approval of:

1. A SUP, where required, a Detailed Plan in a PD district, or a site-specific authorization in a MPC district;
2. A Watershed Protection Permit, where applicable; and
3. A Gas Well Development Site Plan.

Denial or conditional approval of any such applications shall be grounds for denial or conditional approval of the Gas Well Permit.

- B. The DRC shall review each application consistent with the procedures set forth in 35.16.8 and shall determine:
 1. Whether the application includes all of the information required by this Subchapter;
 2. Whether the application is in conformance with the applicable Gas Well Development Site Plan, applicable SUP, MPC Zoning District or PD Zoning District; and
 3. Whether the application is in conformance with the insurance and security requirements set forth in Subsection 35.22.8 and Subsection 35.22.9.
- C. The Oil and Gas Inspector may not release the approved Gas Well Permit until after the Operator has provided:
 1. The security required by Subsection 35.22.9;
 2. Upon the Operator entering into a Road Damage Remediation Agreement that will obligate the operator to repair damage excluding ordinary wear and tear, if any, to public streets, including but not limited 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; and
 3. A copy of the recordable instrument filed with the County Records Department as required by Subsection 35.22.6.B.3.u.
- D. The failure of the DRC or the Oil and Gas Inspector to review and issue a Gas Well Permit within the time limits specified above shall not cause the application for the Permit to be deemed approved.
- E. Each Gas Well Permit issued by the Oil and Gas Inspector shall:
 1. Identify the name of each well and its Operator;
 2. Specify the date on which the Oil and Gas Inspector issued each Permit;

4. Specify the date by which drilling shall commence, otherwise the Permit expires (such date shall not be less than 6 months after the date of issuance).
4. 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;
5. Incorporate, by reference, the insurance and security requirements set forth in Subsection 35.22.8 and Subsection 35.22.9;
6. Incorporate, by reference, the requirement for periodic reports set forth in Subsection 35.22.11 and for Notice of Activities set forth in Subsection 35.22.12;
7. Incorporate the full text of the release of liability provisions set forth in Subsection 35.22.8.A.1;
8. Incorporate, by reference, the conditions of the applicable Watershed Protection Permit, Gas Well Development Site Plan, and applicable SUP, MPC Zoning District, or PD Zoning District, and Gas Well Ordinance applicable at the initiation of the gas well drilling and production project;
9. Incorporate, by reference, the information contained in the Permit application;
10. Incorporate, by reference, the applicable rules and regulations of the RRC, including the applicable "field rules";
11. Specify that no drilling operations (including the construction of internal private access roads) shall commence until the operator has provided the security required by Subsection 35.22.9;
12. Contain 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;
13. Incorporate by reference all permits and fees required by the Fire Code;
14. Incorporate the well's RRC permit number and the American Petroleum Institute (API) number;
15. Incorporate, by reference all other applicable provisions set forth in the DDC; and
16. 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, is true and correct.

17. Contain a statement that the Operator is required to comply with all applicable federal and state laws and regulations, which the City will verify compliance as part of its periodic inspections.
- F. The decision of the Oil and Gas Inspector to deny an application for a Gas Well Permit shall be provided to the operator in writing within ten (10) days after the decision, including an explanation of the basis for the decision.
 - G. If an application for a Gas Well Permit is denied by the Oil and Gas Inspector, nothing herein contained shall prevent a new Permit application from being submitted to the City for the same well.
 - H. Expiration of Gas Well Permit.
 1. A Gas Well Permit is valid for six (6) months and shall automatically expire, unless gas well drilling and production have commenced prior to expiration.
 2. If a Gas Well Permit has been issued by the City but gas well drilling and production have not commenced prior to the expiration of the permit, the permit shall not be extended unless a special exception has been approved by the Board of Adjustment pursuant to 35.22.16; however, the Operator may reapply for a new permit.
 3. If gas well drilling and production have commenced prior to the expiration of the Gas Well Permit issued by the City, the permit shall continue, and Operator shall be subject to an Annual Inspection and Administration fee.
 4. If gas well drilling and production have commenced following issuance of a Gas Well Permit by the City before the expiration date, the approved Drilling and Production Site and all activities shall be subject to inspections by the City to ensure compliance with terms and conditions of the Gas Well Permit and all applicable standards of the DDC.

35.22.11. - Periodic Reports.

- A. The Operator shall notify the Oil and Gas Inspector of any changes to the following information within one (1) business day after the change occurs.
 1. The name, address, and phone number of the Operator;
 2. The name, address, and twenty-four (24)-hour phone number of the person(s) with supervisory authority 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 provide a copy of any "incident reports" or written complaints submitted to the RRC or any other state or federal agency within thirty (30) days after the operator has notice of the existence of such reports or complaints. This includes the recording of both reportable and non-reportable events as noted in Texas Administrative Code, Title 30.
- C. Beginning the January after each well is spud, and continuing on each January thereafter until the operator notifies the Oil and Gas Inspector that the well has been plugged and abandoned and the Drilling and Production Site restored, the operator shall prepare a written report to the Oil and Gas Inspector 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.
- D. The Operator must provide a copy to the Oil and Gas Inspector all reports otherwise filed with the TCEQ in connection with an installed vapor recovery unit as described in 35.22.5.A.2.n. 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 Oil and Gas Inspector.
- 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 Oil and Gas Inspector.
- F. The Operator shall submit a copy of a soil sampling analysis as required by Subsection 35.22.5.A.2.q upon request by the Oil and Gas Inspector.
- G. In addition to the records listed in Subsections 35.22.5.A.6.k.i and 35.22.11.B, 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 Oil and Gas Inspector.

35.22.12. - Notice of Activities.

- A. Any Operator who intends to perform the following activities: (1) drill a well; (2) re-work a well using a drilling rig; (3) to fracture stimulate a well ; (4) perform flow back operations; (5) plug a well; (6) perform any other maintenance at a Drilling and Production Site; or (7) to conduct seismic exploration not involving explosive charges; shall give written notice to the City at least two (2) days before the activities begin. Road

Damage Remediation Fees shall be paid to the City and submitted with the Notice of Activities.

- B. All dwellings within one thousand (1,000) feet of a well shall be notified a minimum of forty-eight (48) hours prior to the activities.
 - 1. 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.
 - 2. The notice shall also provide the address and twenty-four (24)-hour phone number of the person conducting the activities.
- C. 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 name, address, and twenty-four (24)-hour phone number of the person conducting the activities.
- D. If upon receipt of the notice the City determines that an inspection by the Oil and Gas Inspector is necessary, the operator will pay the City's customary charge for the inspection.
- E. Surface Casing.
 - 1. The Operator shall notify the Inspector within 24 hours of setting surface casing.
 - 2. Casing procedures shall follow RRC Rule 3.13, or any successor regulation.
- F. If a proposed Drilling and Production Site is located within one thousand (1,000) feet of a protected use, the Operator shall also host a public meeting at a location accessibly convenient to surrounding property owners and residents at least ten (10) days, but no more than forty-five (45) days, prior to either: (1) the public hearing held by the Planning and Zoning Commission in connection with an SUP application, or (2) the submission of a Gas Well Development Site Plan if an SUP is not required. The Operator must provide written notice of the meeting to all property owners located within one thousand (1,000) feet of the proposed Drilling and Production Site. A mailing list that identifies each property and property owner shall be submitted to the Oil and Gas Inspector for proof of compliance with this requirement. The meeting should provide information regarding planned activities and timelines for the site and must provide an opportunity for citizens to ask questions about the proposed site. All notification and meeting costs shall be borne by the Operator.
- G. All surrounding property owners, businesses and residents within one thousand (1,000) feet of a Drilling and Production Site shall be notified a minimum of forty-eight (48) hours prior to fracturing of a wellhead. In addition, at least two (2) business days before

fracturing operations commence, the Operator shall post a sign at the entrance of the site advising the public of the date the operations will begin and send notice to the City.

35.22.13. - Amended Gas Well Permits.

- A. An Operator may submit an application to the Oil and Gas Inspector to amend existing Gas Well Permits to:
 - 1. Commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) the existing permit;
 - 2. To relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing Gas Well Permit; or
 - 3. To otherwise amend the existing Gas Well Permit, for land subject to the same approved Gas Well Development Site Plan.
- B. Applications for amended Gas Well Permits shall be in writing, shall be on forms provided by the Department of Planning and Development, shall be signed by the operator, and shall include the following:
 - 1. The application fee as set by City ordinance;
 - 2. A description of the proposed amendments;
 - 3. Any changes to the information submitted with the application for the existing Gas Well Permit (if such information has not previously been provided to the City);
 - 4. Such additional information as is reasonably required by the Oil and Gas Inspector to demonstrate compliance with the applicable Gas Well Development Site Plan, applicable SUP or PD District; and
 - 5. Such additional information as is reasonably required by the Oil and Gas Inspector to prevent imminent destruction of property or injury to persons.
- C. All applications for amended Gas Well Permits shall be filed with the Department of Planning and Development, and the Department shall immediately forward all applications to the Oil and Gas Inspector for review. Incomplete applications may be returned to the applicant, in which case the City shall provide a written explanation of the deficiencies; however, the City may retain a processing fee as determined by the Oil and Gas Inspector. The City may return any application as incomplete if there is a dispute pending before the RRC regarding the determination of the Operator.
- D. If the activities proposed by the amendment are not materially different from the activities covered by the existing Gas Well Permit or Gas Well Development Site Plan, and if the proposed activities are in conformance with the applicable Watershed

Protection Permit, Gas Well Development Site Plan, applicable SUP or Detailed Plan in a PD District, or site-specific authorization in a MPC District, then the Oil and Gas Inspector shall approve the amendment within ten (10) days after the application is filed.

- E. If the activities proposed by the amendment are materially different from the activities covered by the existing gas well permit, and if the proposed activities are in conformance with the applicable Watershed Protection Permit, Gas Well Development Site Plan, applicable SUP or Detailed Plan in a PD District, or site-specific authorization in a MPC District, then the Oil and Gas Inspector shall approve the amendment within thirty (30) days after the application is filed. In addition, if the activities proposed by the amendment are materially different or, in the judgment of the Oil and Gas Inspector, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing permit or that was not otherwise taken into consideration by the existing permit, the Oil and Gas Inspector may require the amendment to be processed as a new Gas Well Permit application.
- F. The failure of the Oil and Gas Inspector to review and issue an amended Gas Well Permit within the time limits specified above shall not cause the application for the amended Permit to be deemed approved.
- G. The decision of the Oil and Gas Inspector to deny an amendment to a Gas Well Permit shall be provided to the operator in writing within ten (10) days after the decision, including an explanation of the basis for the decision. The operator may appeal any such denial in accordance with Section 35.22.16.A.1.

35.22.14. - Transfer of Gas Well Permits.

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 Section 35.22.8 and Section 35.22.9. 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.

35.22.15. - Inspection.

- A. The Oil and Gas Inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this Subchapter. Failure of any person to comply with any such order or directive shall constitute a violation of this Subchapter.
- B. The Oil and Gas Inspector shall have the authority to enter and inspect any premises covered by the provisions of this subchapter, to determine compliance with its provisions,

and all applicable laws, rules, regulations, standards, or directives of any local state or federal authority.

- C. Pursuant to inspection authority granted by the Texas Clean Air Act and the Texas Water Code, the Oil and Gas Inspector shall conduct periodic inspections of all wells permitted under this Subchapter.
- D. Inspections may include periodic evaluations of air quality, both on, and at the boundary of, Drilling and Production Sites. Inspections will also include an evaluation of Operator conformance with their Hazardous Materials Management Plan and other applicable requirements to their site.

35.22.16. – Appeals and variances.

A. Procedures.

- 1. The Board of Adjustment shall hear and decide appeals of orders, decisions, or determinations made by the Oil and Gas Inspector relative to the application and interpretation of this Subchapter, except for those matters described in Sections 35.22.4.F.3 and 35.22.17; furthermore the Board of Adjustment shall hear and decide requests for variances to the provisions of this Subchapter under the criteria set forth below. The Board may also grant a special exception extending the expiration date of a Gas Well Development Site Plan or a Gas Well Permit for a period not to exceed one year pursuant to the criteria set forth below. Any Operator who desires to appeal the type of action described in this subsection or to file a variance may file an appeal or variance to the Board of Adjustment pursuant to procedural process outlined in Section 35.3.6 of the DDC. Appeal fees shall be required for every appeal or variance request. The Board of Adjustment shall review the appeal or variance and any other related information.
 - 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 the issuance or non-issuance of a Gas Well Permit.
 - b. Standard of review for variances.
 - 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 town;
- 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;
- vi. Whether the drilling of the maximum number of potential wells for the proposed drill site would conflict with the orderly growth and development of the town;
- vii. Whether there are other alternative well site locations;
- viii. Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the oil, gas, or combined well permit conditions to be imposed;
- ix. Whether the operations proposed are consistent with protecting the ecological integrity and environmental quality, including protection of surface and ground water sources, of potentially impacted environmentally sensitive areas;
- x. Whether there is reasonable access for town fire personnel and firefighting equipment, including the ability to safely evacuate potentially affected residents; and
- xi. Whether the impact upon the adjacent property(ies) and the general public by operations conducted in compliance with the oil, gas, or combined well permit conditions are reasonable and justified, balancing the following factors:
 - 1. The reasonable use of the mineral estate by the mineral estate owner(s) to explore, develop, and produce the minerals; and
 - 2. The availability of alternative drilling sites.

- c. The Board of Adjustment shall determine whether to grant an extension of the expiration date 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 Permit, 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 Permit expires.
2. The Board of Adjustment may reverse or affirm, in whole or in part, or modify the Oil and Gas Inspector's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination. The Board of Adjustment may issue a variance to the applicant under the criteria referenced in Subsection A.1.b., and may grant a special exception under the criteria referenced in A.1.c. Any action under this subsection shall require a three-fourths majority vote of the entire Board of Adjustment.
3. Any Operator 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 ten 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 Texas Local Government Code, § 211.011, as amended.

B. Watershed Permit Appeals.

1. The applicant may appeal the denial or conditional approval of a Watershed Protection Permit on grounds pertaining to the standards in Subsection 35.22.5.A.6 and 35.22.5.A.8 to the Planning and Zoning Commission within ten (10) calendar days of the decision by the DRC. In deciding the appeal, the Planning and Zoning Commission shall decide the appeal based upon the standards made applicable to the permit by Subsection 35.22.5.A.6 and 35.22.5.A.8.
2. The applicant may file a petition for review pursuant to Subsection 35.22.5.A.6 and 35.22.5.A.8 on grounds therein specified to the City Council within ten (10) calendar days of the decision by the Planning and Zoning Commission. The Council shall decide the petition based upon the criteria in Subsection 35.22.5.A.6 and 35.22.5.A.8.

C. Preemption Appeal.

1. **Purpose.** The regulation of gas well drilling and production in this subchapter potentially overlaps with regulation of gas well drilling and production by the State of Texas and the United States of America. The purpose of this section is to afford Operators the opportunity to demonstrate to the City that one or more standards or procedures contained in this subchapter are preempted by state or federal law.

2. **Petition Contents.** An Operator who is aggrieved by the promulgation or application of the standards or procedures in this subchapter and who claims that one or more such standards or procedures are preempted by state or federal law shall submit a petition to the Oil and Gas Well Inspector explaining the factual and legal bases upon which the Operator relies to support his contention that a regulation in this subchapter is preempted. The petition shall be accompanied by an unconditional waiver of any statutory time periods or time periods established by ordinance for review of any filed applications which are the subject of the petition. The petition shall include, at a minimum, the following:
 - a. The name, mailing address, phone number and fax number of the person (or the person's duly authorized agent);
 - b. Identification of all property owned or under the control of the Operator that is affected by the preemption claim;
 - c. Identification of the permit applications for which the applicant seeks relief under this section;
 - d. Identification of all regulations in this subchapter that the petitioner contends do not apply to the project due to preemption of the subject matter by state or federal law;
 - e. For each regulation in this subchapter that is the subject of the Operator's preemption claim, specification of the state or federal law, standard, administrative rule or order that allegedly preempts the regulation, together with an explanation of why such law, standard, administrative rule or order preempts the regulation.

3. **Procedure and Decision.**

The Oil and Gas Inspector shall first determine whether the application is complete pursuant to DDC section 35.16.8. Once the application has been determined to be or is deemed complete, the Director shall forward the preemption petition, together with the required supporting information or documentation, to the City Manager and City Attorney for their respective reviews. Prior to rendering his final determination, the City Manager may request a pre-determination conference with the petitioner to discuss the preemption claim and to ensure that the nature of the claim is fully and completely understood by the City Manager. The City Manager, after consultation with the City Attorney, shall render a final administrative determination that grants

the relief requested in the petition in whole or in part, or denies the requested relief in whole or in part within 30 days of the date the petition is complete. The City Manager's determination shall include a statement of the reasons for the decision, and shall identify the regulations that are preempted on their face or as applied to the petitioner's permit application(s) for approval under this subchapter. The City Manager may also recommend to the City Council that one or more regulations contained in this subchapter should be repealed or modified so as to avoid other preemption claims.

35.22.17. - Remedies of the City.

- A. If an Operator (or its officers, employees, agents, contractors, subcontractors or representatives) fails to comply with any requirement of a Gas Well Permit (including any requirement incorporated by reference as part of the Permit), the Fire Marshal or Oil and Gas Inspector may, in connection with or separate from 35.22.18, 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 cure, and the potential impact on the health, safety, and welfare of the community. The Operator shall respond in writing within forty-eight (48) hours and indicate how the violation(s) shall be cured. In no event, however, shall the cure period be less than thirty (30) days unless the alleged failure presents a risk of imminent destruction of property or injury to persons or unless the alleged failure involves the operator's failure to provide periodic reports. The Fire Marshal or Oil and Gas Inspector may issue a Stop Work Order under the Fire Code.
- B. If the Operator does not cure the alleged failure within the time specified by the Fire Marshal and/or Oil and Gas Inspector, the Fire Marshal and/or Oil and Gas Inspector may notify the RRC and request that the RRC take appropriate action (with a copy of such notice provided to the operator), and the City may pursue any other remedy available.
- C. If the operator does not cure the alleged failure within the time specified by the Fire Marshal and/or Oil and Gas Inspector, the Oil and Gas Inspector may upon recommendation of the Health and Building Standards Commission
 1. Recommend to the City Council that the Gas Well Permit be suspended until the alleged failure is cured; or,
 2. Recommend to the City Council that the Gas Well Permit be revoked, if after prior suspension the Operator does not cure the alleged failure.
- D. The decision of the Fire Marshal and/or Oil and Gas Inspector to recommend suspension or revocation of a Gas Well Permit shall be provided to the Operator in writing at least ten (10) days before any action by the City Council unless the alleged failure present a risk of imminent destruction of property or injury to persons.

- E. If a Gas Well Permit is revoked, the Operator may submit information to the Oil and Gas Well Inspector evidencing that the alleged failure resulting in the revocation of the Gas Well Permit have been corrected, and an application for a new Gas Well Permit may be submitted for the same well.

35.22.18. - Enforcements, Right of Entry.

- A. The Fire Marshal and the Oil and Gas Inspector are authorized and directed to enforce this Subchapter and the provisions of any Gas Well Permit. Whenever necessary to enforce any provision of this Subchapter or a Gas Well Permit, or whenever there is reasonable cause to believe there has been a violation of this Subchapter or a Gas Well Permit, the Fire Marshal or Oil and Gas Inspector, may enter upon any property covered by this Subchapter or a Gas Well Permit at any reasonable time to inspect or perform any duty imposed by this Subchapter. 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 Subchapter;
 - 2. Fail to comply with any conditions set forth in a Gas Well Permit issued under this Subchapter; or
 - 3. Violate any provision or requirement set forth under this Subchapter.
- C. The enforcement and penalty provision under Subsection 35.1.10.4 shall apply to a violation of this Subchapter.
- D. The Fire Marshal or Oil and Gas Inspector is authorized to issue citations into municipal court for violations of this Subchapter 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 Subchapter.