

ARTICLE XI. GAS DRILLING AND PRODUCTION

DIVISION 1. GENERALLY

Sec. 12-335. Short title.

This chapter shall be known and cited as the Gas Drilling and Production Chapter.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-336. Purpose.

The exploration, development, and production of gas in the city is an activity which necessitates reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to peaceably enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this chapter to establish reasonable and uniform limitations, safeguards and regulations for present and future operations on private property related to the exploring, drilling, developing, producing, transporting and storing of gas and other substances produced in association with gas within the city to protect the health, safety and general welfare of the public; minimize the potential impact to private property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources.

To the extent that any provision of this chapter might be inconsistent or in conflict with the specific provisions of any other ordinance of the city, this chapter shall control with regard to the conflict.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-337. Definitions.

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this chapter shall have the meanings customarily attributable thereto by prudent and reasonable gas industry operators. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment means "abandonment" as defined by the Texas Railroad Commission and includes the plugging of the well and the restoration of any well site as required by this chapter.

Blowout preventer means a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe, or other tubular goods which completely close the top of the casing and are designed for preventing blowouts.

Building means any structure which is built for the support, shelter, or enclosure or partial enclosure of persons, animals, chattels, or movable property of any kind including pools.

Building official means the officer or other designated authority charged with administration and enforcement of this chapter, or the building official's duly authorized representative.

Cathodic protection means 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.

Church means a facility or area for people to gather together for public worship, religious training, or other religious activities including a temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence.

City means the City of Hurst.

City Code means the Code of Ordinances of the City.

City attorney means the city attorney of the city.

Completion of drilling, re-drilling and reworking means the date the work is completed for the drilling, re-drilling or reworking and the crew is released by completing their work or contract or by their employer.

Derrick means any portable framework, tower, mast and/or structure which is required or used in connection with drilling or reworking a well for the production of gas.

Drilling means digging or boring a new well for the purpose of exploring for, developing or producing gas or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling equipment means the derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.

Drill site means the premises used during the drilling or reworking of a well or wells located there and subsequent life of a well or wells or any associated operation.

Exploration means geologic or geophysical activities, including seismic surveys, related to the search for gas or other subsurface hydrocarbons.

Fire department means the fire department of the city.

Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

Gas well means any well drilled, to be drilled, or used for the intended or actual production of natural gas.

Hospital means a facility or area for providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities and staff offices that are an integral part of the facilities.

Inspection services provider(s) means the city manager's designee to provide gas well inspection services.

Operation site means the area used for development and production and all operational activities associated with gas after drilling activities are complete.

Operator means, for each well, the person listed on the appropriate Texas Railroad Commission forms for a gas well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the operator, as herein defined, is not the lessee under a gas lease of any premises affected by the provisions of this chapter, then such lessee shall also be deemed to be an operator. In the event that there is no gas lease relating to any premises affected by this chapter, the owner of the fee mineral estate in the premises shall be deemed

an operator.

Person means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

Persons means every person, firm, co-partnership, association, partnership, corporation or society; and shall include both singular and plural and the masculine shall include the feminine gender.

Public parks or playgrounds, mean a facility or area for recreational, cultural or aesthetic use owned or operated by a public agency and available to the general public.

This definition may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and watercourses.

Public or private school means an educational institution, attendance at which satisfies the compulsory education laws of the State of Texas. A facility or area for pre-kindergartens, kindergartens, elementary or secondary education supported by a public, church or parish organization. This definition may include after public or private school and summer programs which coincide with the age brackets for public and private public or private schools.

Railroad commission means the Texas Railroad Commission.

Re-drill means re-completion of an existing well by deepening or sidetrack operations extending more than one hundred fifty (150) feet from the existing well bore.

Residence means a house, duplex, apartment, townhouse, condominium, mobile home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a gas well permit is filed with the inspector.

Reworking means re-completion or re-entry of 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.

Right-of-way means any area of land within the city that is acquired by, dedicated to, or claimed by the city in fee simple, by easement, by prescriptive right or other interest and that is expressly or impliedly [implicitly] accepted or used in fact or by operation of law as a public roadway, sidewalk, alley, utility, drainage, or public access easement or used for the provision of governmental services or functions. The term includes the area on, below, and above the surface of the public right-of-way. The term applies regardless of whether the public right-of-way is paved or unpaved.

Street means any public thoroughfare dedicated to the public use and not designated as an alley or private access easement.

Tank means a container, covered or uncovered, used in conjunction with the drilling or production of gas or other hydrocarbons for holding or storing fluids.

Technical advisor means such person(s) familiar with and educated in the gas industry or the law as it relates to gas matters who may be retained from time to time by the city.

Well means a hole or holes, bore or bores, to any horizon, formation, or strata for the purpose of producing gas, liquid hydrocarbon, brine water or sulphur water, or for use as an injection well for secondary recovery, disposal or production of gas, or other hydrocarbons from the earth.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-338. Inspection.

(a) The city manager may designate an official, enter into a contract for professional services, or enter into an interlocal agreement with a governmental unit, in order to enforce the provisions of this

chapter, who shall be known as the inspection services provider(s). The inspection services should be performed by an individual, preferably with a degree in petroleum engineering with a background in drilling and production or demonstrate a proven background in the drilling, production, and operation of gas wells. The inspection services provider(s) shall have the authority to issue any orders or directives required to carry out the intent and purpose of this chapter and its particular provisions.

(b) The inspection services provider(s) shall have the authority to enter and inspect any premises covered by the provisions of this chapter to determine compliance with the provisions of this chapter and all applicable laws, rules, regulations, standards or directives of the state. Failure of any person to permit access to the inspection services provider(s) shall constitute a violation of this chapter. The inspection services provider(s) may conduct periodic inspections of all permitted wells in the city to determine that the wells are operating in accordance within proper safety parameters as set out in this chapter and all regulations of the railroad commission.

(c) The inspection services provider(s) shall have the authority to request and receive any records, including any records sent to the railroad commission, logs, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable gas well permit.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-339. Operator's agent.

Every operator of any well shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this chapter may be served in person or by registered or certified mail. Every operator so designating such agent shall within ten (10) days notify the inspector in writing of any change in such agent or such mailing address unless operations within the city are discontinued.

(Ord. No. 1990, § 2, 7-25-06)

Secs. 12-340-12-350. Reserved.

DIVISION 2. GAS WELLS

Sec. 12-351. Gas well permit required.

(a) *Specific use permit.* A gas well permit obtained from the city will be considered as a specific use permit as established by this code.

(b) *Private property drilling.* A person wanting to engage in and operate gas production activities on private property shall apply for and obtain a gas well permit under this chapter. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, reworking, fracturing or operation of any such well or to conduct any activity related to the production of gas without first obtaining a gas well permit issued by the city in accordance with this chapter. The operator must apply for and obtain a gas well permit for the drilling, re-drilling, deepening, reentering, activating or converting of each well on private property. Such activities include, but are not limited to initial site preparation, construction of rigs or tank batteries, fracturing and pressurizing, drilling, operation, production gathering or production maintenance, repair, reworking, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well. A permit shall not be required for seismic surveys.

(c) *Blanket permit.* The operator may apply for and obtain a "blanket" gas well permit for more than one (1) well, if multiple wells are located on the same tract of land.

(d) *Abandoned well permit.* Gas well permit shall not constitute authority for the reentering and drilling of an abandoned well. An operator shall obtain a new gas well permit in accordance with the provisions of this chapter if the operator is reentering and drilling an abandoned well.

(e) *New or supplemental permit.* A new or supplemental permit shall be obtained before such well may be reworked for purposes of re-drilling, deepening or converting such well to a depth or use other than that set forth in the then-current permit for such well.

(f) *Requirements for notification of drilling related activities.* Any person who intends to rework a permitted well using a drilling rig, to fracture stimulate a permitted well after initial completion or to conduct seismic surveys or other exploration activities, shall give written notice to the inspection services provider(s) no less than ten (10) days before the activities begin. The notice must identify where the activities will be conducted and must describe the activities in detail, including whether explosive charges will be used, the duration of the activities and the time the activities will be conducted. The notice must also provide the address and 24-hour phone number of the person conducting the activities. If requested by the inspection services provider(s), the person conducting the activities will post a sign on the property giving the public notice of the activities, including the name, address and 24-hour phone number of the person conducting the activities. If the inspection services provider(s) determines that an inspection is necessary, the operator will pay the city for the inspection.

(g) *Requirements for fracture stimulation operations.* The following requirements shall apply to all fracture stimulation operations performed on a well within six hundred (600) feet of an occupied residence:

(1) At least seventy-two (72) hours before operations are commenced, the operator shall post a sign at the entrance of the well site advising the public of the date the operations will commence;

(2) Flowback operations to recover fluids used during fracture stimulation shall be performed during daylight hours only unless the inspector approves such operations during non-daylight hours;

(3) A watchman shall be required at all times during such operations; and

(4) At no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.

(h) *Termination and extension of permit.* A gas well permit shall automatically terminate, unless extended, if drilling is not commenced within one hundred eighty (180) days from the date of the issuance of the gas well permit. Drilling must commence within one hundred eighty (180) days from the date of the issuance of the gas well permit on at least one (1) well under a "blanket permit," as described in subsection (c) above in order to maintain the validity of the gas well permit for the multiple wells.

A gas well permit may be extended by the inspector for an additional one hundred eighty (180) days upon request by the operator and proof that the classification of the requested gas well permit for such location has not changed.

(i) *Other permits required.* The gas well permits required by this chapter are in addition to, and are not in lieu of, any permit which may be required by the Unified Development Code or any other provision of this Code or by any other governmental agency.

(j) *Floodway.* No gas well permit shall be issued for any well to be drilled within any floodway.

(k) *Ordinance in full effect.* By acceptance of any gas well permit issued pursuant to this chapter, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this chapter. The terms of this chapter shall be deemed to be incorporated in any gas well permit issued

pursuant to this chapter with the same force and effect as if this chapter was set forth verbatim in such gas well permit.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-352. Gas well permit application and filing fees.

(a) Every application for a gas well permit issued pursuant to this chapter shall be in writing signed by the operator, or some person duly authorized to sign on his behalf, and filed with the planning and development department.

(b) Every application shall be accompanied by a non-refundable permit fee of three thousand dollars (\$3,000.00) as approved by this article. The applicant/operator, in addition to the usual application fee, shall reimburse the city for the actual cost to the city for the services of a technical expert to review the application and/or information supplement.

(c) The application shall include the following information:

(1) A copy of the approved railroad commission permit to drill, together with attachments and survey plats which are applicable to the drill and operation sites.

(2) The date of the application.

(3) An accurate legal description of the lease property to be used for the gas operation, the parcel and the production unit and name of the geologic formation as used by the railroad commission. Property recorded by plat should reference subdivision, block and lot numbers.

(4) Map showing proposed transportation route and road for equipment, chemicals or waste products used or produced by the gas operation.

(5) Proposed well name.

(6) Surface owner name(s) and address(es) of the lease property.

(7) Mineral lessee name and address.

(8) Applicant/operator name and address and if the operator is a corporation, the state of incorporation, address, officers' names and addresses, registered agent and address and divisions of incorporation; and if the operator is a partnership, the names and addresses of the general and limited partners. Copies of any assumed name filings.

(9) Name and address of individual designated to receive notice.

(10) Name of representative with supervisory authority over all gas operation site activities and a 24-hour phone number.

(11) Owner and address of each parcel of property within one thousand (1,000) feet of the proposed drill site.

(12) A detailed site plan that includes the proposed operation site showing the location and providing a description of all improvements and structures within six hundred (600) feet of the well, including the location of the proposed well(s) and other facilities and equipment, including, but not limited to, tanks, pipelines, compressors, separators and storage sheds.

(13) A detailed site plan that includes specific details to the projected location of the major components of the drilling site, impacted vegetation, creeks and other topographic features, adjacent building and other structures and the measured distance from the well site to these buildings and structures, temporary and permanent fencing and landscaping.

(14) The name, address and 24-hour phone number of the person to be notified in case of an emergency.

- (15) The exact and correct acreage and number of wells included in the gas well permit application.
- (16) A signed road repair contract supplied by the city that provides that the operator shall repair, at his own expense, any damage to roads, streets, or highways caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, and operation of gas wells.
- (17) A description of public utilities required during drilling and operation.
- (18) A description of the water source to be used during drilling.
- (19) A copy of the stormwater pollution prevention plan as required by the environmental protection agency. A copy of the notice of intent shall be submitted to the city engineer, three (3) days prior to the commencement of any onsite activity.
- (20) A copy of the determination by the Texas Commission on Environmental Quality of the depth of useable quality ground water.
- (21) The insurance and security requirement documents under this chapter.
- (22) A notarized statement signed by the operator, or designated representative, that the information submitted with the application is, within the personal knowledge of the operator or designated representative, true and correct.
- (23) All required application and gas well permit fees.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-353. Issuance of gas well permit.

A gas well permit shall be required if a proposed well is to be located within the city on private property.

- (1) *Permitting procedure.*
 - a. It is the responsibility of the inspection services provider(s) to review and recommend approval or denial of all applications for gas well drilling permits based on the criteria established by this chapter. The inspection services provider(s), within sixty (60) days after the filing of a completed application and remittance of all fees, insurance and security per the requirements of this chapter for a gas well permit, shall determine whether or not the application complies in all respects with the provisions of this chapter and shall determine if the proposed well to be drilled or the facility to be installed is in compliance with the distance requirements for the requested gas well permit.
 - b. The provisions of this chapter shall apply to any dwellings or buildings for which an application for a building permit has been submitted on the date the application for a gas well permit is filed with the planning and development department.
 - c. Within forty-five (45) days of the inspection services provider(s)' determination that the application complies with all requirements, the planning and development department shall coordinate placing the matter on the city council agenda for a public hearing and consideration as a specific use permit and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has requested in writing to be so notified. The 45-day period shall not begin to run until the inspection services provider(s) has made a determination that the application complies with all requirements.
 - d. At least twenty (20) days, and no more than thirty (30) days prior to the date of

the public hearing before the city council for a gas well permit under this chapter, city shall notify, at operator's expense, each surface owner of property, as shown by the current tax roll, within one thousand (1,000) feet of the proposed well, not owned by or under lease to the operator and the hearing date and time. Depositing the same, in the United States mail, properly addressed and postage paid, as outlined below, shall constitute such notice.

e. At least fifteen (15) days, and no more than twenty (20) days prior to the date of the public hearing before city council for a gas well permit under this chapter, city shall publish a copy of the notice as outlined below, at operator's expense, in one (1) issue of a daily newspaper of the city for ten (10) consecutive days.

The notice shall read as follows:

"Notice is hereby given that, acting under and pursuant to the ordinances of the City of Hurst, Texas, on the _____ day of _____, 20_____, filed with the Inspector of the City of Hurst, an application for a gas well permit to drill, complete and operate a well for gas upon property located at Hurst, Tarrant County, Texas, more particularly shown on the map of record in volume _____ page _____, plat records of Tarrant County, Texas or per tax tract number _____, Tarrant County, Texas. The city council will conduct a public hearing on the request for said permit on the _____ day of _____ 20 at _____ o'clock p.m. in the city council chambers located at 1505 Precinct Line Road, Hurst, Texas.

f. At least twenty (20) days prior to the date of the public hearing before city council for a gas well permit the operator shall, at operator's expense, erect at least one (1) city-provided sign, no less than two (2) feet by three (3) feet, upon the premises upon which a gas well permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property.

1. The sign(s) shall substantially indicate that a gas well permit to drill for gas has been requested and state the time and place of the public hearing, and shall further set forth that additional information can be acquired by telephoning the applicant/operator at the number indicated on the sign.
2. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this chapter.
3. Any sign(s) shall be removed within seven (7) days after final action by the city council.

g. All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

h. After a permit application is submitted, the inspection services provider(s) shall evaluate the public impact of the proposed activity. The inspection services provider(s) shall consider the proposed site and the proposed operations or drilling program and shall draft recommended restrictions or conditions, including minimum separation distance for drilling or other operations, special safety equipment and procedures, recommended noise reduction levels, screening and any other requirements the inspection services provider(s) deems appropriate. The recommendation shall be submitted to the city council for consideration prior to the public hearing.

i. At the public hearing and before the city council considers the merits of the application and the recommendations of the inspection services provider(s), the applicant/operator shall provide evidence of having otherwise complied with or

satisfied all other requirements of this chapter, including full and complete compliance with the insurance and security requirements.

j. The burden of proof on all matters considered in the hearing shall be upon the applicant/operator.

k. The city council shall review the application and any other related information. The city council shall consider the following in deciding whether to grant a gas well permit:

1. Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there;

2. Whether the drilling of such wells would conflict with the orderly growth and development of the city;

3. Whether there are other alternative well site locations;

4. Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the gas well permit conditions to be imposed;

5. Whether there is adequate access for emergency personnel and equipment;

6. Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the gas well permit conditions are reasonable and justified, balancing the following factors:

(i) The right of the owner(s) of the mineral estate to explore, develop, and produce the minerals; and

(ii) The availability of alternative drill sites.

7. The recommendations of the inspection services provider(s).

l. The city council may require an increase in the distance the well is set back from any residence, church, public building, hospital, public or private school, or public park, playground, or require any change in operation, plan, design, layout or any change in the on-site and technical regulations in section 12-376, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.

m. In making its decision, the city council shall have the power and authority to refuse any gas well permit to drill any well at any particular location within the city, when by reason of such particular location and other characteristics, the drilling of such wells at such particular location would be injurious to the health, safety or welfare of the inhabitants in the immediate area of the city.

n. The city council may accept, reject or modify the application in the interest of securing compliance with this chapter, the city Code and/or to protect the health, safety and welfare of the community.

o. If the operator elects not to accept the gas well permit under the terms and conditions imposed by the city council and wishes to withdraw his application, the operator must notify the planning and development department in writing of his decision.

(2) *Well setbacks for gas well permit.* See subsection 12-376.

(3) *Fencing for gas well permit.*

- a. A chain link fence with slats a minimum of eight (8) feet but not to exceed ten (10) feet in height shall enclose all completed wells and tanks located within a gas well permit area.
- b. Gates requirements and other fencing requirements as outlined in section 12-376 shall also be required.

(4) *Landscaping.* The inspection services provider(s) shall make recommendations regarding specific landscaping requirements as deemed appropriate to the drill site location.

It shall be the responsibility of the operator to maintain the landscaping as identified per the city landscape ordinance.

(5) *Vehicle routes for gas well permit.* Vehicles associated with drilling and/or production in excess of three (3) tons shall be restricted to such streets designated as either truck routes or commercial delivery routes by the city Code wherever capable of being used. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated. Commercial delivery route means any street or highway so designated by the city council for the use by any commercial motor vehicle, truck-tractor, trailer, semi-trailer, or any combination thereof.

(6) *Work hours for gas well permit.* Site development, other than drilling, shall be conducted only between 7:00 a.m. and 8:00 p.m. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site, shall be limited to between the hours of 7:00 a.m. to 8:00 p.m. except in cases of fires, blowouts, explosions and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production.

(7) *Noise restrictions for gas well permit.* No drilling, producing or other operations shall produce a sound level greater than seventy-eight (78) dB(A) when measured at a distance of three hundred (300) feet from the production equipment in question. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) feet above ground level, when measured at a distance of three hundred (300) feet from the production equipment. A maximum sound level of eighty-five (85) dB(A) shall apply to formation fracturing when measured at a distance of three hundred (300) feet from the production equipment in question.

(8) *Tank specifications for gas well permit.* All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the fire chief. The top of the tanks shall be no higher than eight (8) feet above the terrain surrounding the tanks. All tanks shall be set back pursuant to the standards of the railroad commission and the National Fire Protection Association, but in all cases, shall be at least twenty-five (25) feet from any public right-of-way or property line.

(9) All other provisions outlined in this chapter shall be required.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-354. Denial of gas well permit application.

If the inspection services provider(s) denies a gas well permit application for reasons other than lack of required distance as set out in this chapter for the requested gas well permit, he shall notify the operator in writing of such denial stating the reasons for the denial. Within thirty (30) days of the date of the written decision of the inspection services provider(s) to deny the gas well permit, the operator may:

- (1) Cure those conditions that caused the denial and resubmit the application to the planning and development department for approval and issuance of the gas well permit; or
- (2) File an appeal to the city council under the provisions outlined in section 12-381.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-355. Amendment of gas well permits.

(a) Applications for amended gas well permits shall be in writing, shall be signed by the operator, and shall include the following:

- (1) A nonrefundable permit fee of three thousand dollars (\$3,000.00) as approved by this article. The applicant/operator, in addition to the usual application fee, shall reimburse the city for the actual cost to the city for the services of a technical expert to review the application and/or information supplement;
- (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 inspection services provider(s) to demonstrate compliance with the applicable gas well permit; and
- (5) Such additional information as is reasonably required by the inspection services provider(s) to prevent imminent destruction of property or injury to persons.

(b) All applications for amended gas well permits shall be filed with the planning and development department for review by the inspection services provider(s). Incomplete applications may be returned to the applicant, in which case the city shall provide a written explanation of the deficiencies; however, the city shall retain the application fee. The city may return any application as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator.

(c) If the activities proposed by the amendment are not materially different from the activities covered by the existing gas well permit, and if the proposed activities are in conformance with the applicable gas well permit, then the inspector shall approve the amendment within ten (10) days after the application is filed.

(d) 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 gas well permit, then the inspection services provider(s) shall approve the amendment within thirty (30) days after the application is filed. If, however, the activities proposed by the amendment are materially different and, in the judgment of the inspection services provider(s), might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing gas well permit or that was not otherwise taken into consideration by the existing gas well permit, the inspection services provider(s) may require the amendment to be processed as a new gas well permit application.

(e) The failure of the inspection services provider(s) to review and issue an amended gas well permit within the time limits specified above shall not cause the application for the amended gas well permit to be deemed approved.

(f) The decision of the inspection services provider(s) 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 pursuant to section 12-381.

(g) An operator must submit an application for a specific use permit to commence drilling from a

new drill site that is not shown on (or incorporated by reference as part of) an existing gas well permit.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-356. Suspension or revocation of gas well permit, effect.

(a) If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a gas well permit (including any requirement incorporated by reference as part of the gas well permit), the inspection services provider(s) shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than thirty (30) days, unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this chapter.

(b) If the operator fails to correct the noncompliance within thirty (30) days from the date of the notice, the inspection services provider(s) may suspend or revoke the gas well permit pursuant to the provisions of this chapter.

(c) No person shall carry on any operations under the terms of the gas well permit issued under this chapter during any period of any gas well permit suspension or revocation or pending a review of the decision or order of the city in suspending or revoking the gas well permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the gas well permit was ordered for the safety of persons or as required by the railroad commission.

(d) If the operator does not cure the noncompliance within the time specified in this chapter, the inspection services provider(s), upon written notice to the operator, may notify the railroad commission and request that the railroad commission take any appropriate action.

(e) Operator may, within thirty (30) days of the date of the decision of the inspection services provider(s) in writing to suspend or revoke a gas well permit, file an appeal to the city council under the provisions outlined in section 12-381.

(f) If an application for a gas well permit is denied by the inspection services provider(s), nothing herein contained shall prevent a new permit application from being submitted to the planning and development department for the same well.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-357. Periodic reports.

(a) The operator shall notify the inspection services provider(s) of any changes to the following information within one (1) business week after the change occurs:

- (1) The name, address, and phone number of the operator;
- (2) The name, address, and phone number of the person designated to receive notices from the city (which person must be a resident of Texas that can be served in person or by registered or certified mail); and
- (3) The operator's emergency action response plan (including "drive-to-maps" from public rights-of-way to each drill site).

(b) The operator shall notify the inspection services provider(s) of any change to the name, address, and 24-hour phone number of the person(s) with supervisory authority over drilling or

operations activities within one (1) business day.

(c) The operator shall provide a copy of any "incident reports" or written complaints submitted to the railroad commission within thirty (30) days after the operator has notice of the existence of such reports or complaints.

(d) Beginning on December 31 after each well is completed, and continuing on each December 31 thereafter until the operator notifies the inspector that the well has been abandoned and the site restored, the operator shall submit a written report to the 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.

(Ord. No. 1990, § 2, 7-25-06)

Secs. 12-358--12-368. Reserved.

DIVISION 3. INSURANCE, BOND AND IDEMNITY

Sec. 12-369. Bond, letters of credit, indemnity, insurance.

(a) *General requirements.* The operator shall be required to:

(1) Comply with the terms and conditions of this chapter and the gas well permit issued hereunder.

(2) Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed, or occurring in the operations, and after abandonment or completion grade, level and restore such property to the same surface conditions as nearly as possible as existed before operations.

(3) Indemnify and hold harmless the city, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by operator under a gas well permit regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of operator.

(4) Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the gas well permit.

(5) Promptly restore to its former condition any roadway, right-of-way, or other public property damaged by the gas operation (See road repair contract).

(b) *Bond, irrevocable letter of credit.*

(1) Prior to the issuance of a gas well permit, the operator shall provide the inspector with a security instrument in the form of a surety bond or an irrevocable letter of credit as follows:

a. *Bond.* A bond shall be executed by a reliable bonding or insurance institution authorized to do business in Texas and acceptable to the city. The bond shall become effective on or before the date the gas well permit is issued and shall remain in force and effect for at least a period of six (6) months after the expiration of the gas well permit term or until the well is plugged and abandoned and the site restored, whichever occurs first. The operator shall be listed as principal and the instrument shall run to the city, as obligee, and shall be conditioned that the operator will comply and perform in accordance with the terms and regulations of this chapter,

other applicable city ordinances and the road repair contract. The original bond shall be submitted to the inspector with a copy of the same provided to the city secretary and the risk manager.

b. *Letter of credit.* A letter of credit shall be issued by a reliable bank authorized to do business in Texas, acceptable to the city in its sole discretion, and shall become effective on or before the date the gas well permit is issued. The letter of credit shall remain in force and effect for at least a period of six (6) months after the expiration of the gas well permit term or until the well is plugged and abandoned and the site is restored, whichever occurs first. If the letter of credit is for a time period less than the life of the well as required by this chapter, the operator must either renew the letter of credit or replace the letter of credit with a bond in the amount required by this chapter, on or before forty-five (45) days prior to the expiration date of the letter of credit. If the operator fails to deliver to the city either the renewal letter of credit or replacement bond in the appropriate amount on or before forty-five (45) days prior to the expiration date of the letter of credit, the city may draw the entire face amount of the attached letter of credit to be held by the city as security for operator's performance of its obligations under this chapter.

In any event, the city may draw upon the letter of credit upon a signed statement by its city manager that the terms of this chapter have not been complied with, in any respect. The city shall be authorized to draw upon such letter of credit to recover any fines, penalties, defaults or violations assessed under this chapter or the road repair contract. Evidence of the execution of a letter of credit shall be submitted to the inspector by submitting an original signed letter of credit from the banking institution, with a copy of the same provided to the city secretary and the risk manager.

c. The principal amount of any security instrument shall be fifty thousand dollars (\$50,000.00) for any single well. If, after completion of a well, the applicant/operator, who initially posted a fifty thousand-dollar (\$50,000.00) bond, has complied with all of the provisions of this chapter and whose well is in the producing state and all drilling operations have ceased, may submit a request to the inspector to reduce the existing bond to ten thousand dollars (\$10,000.00) for the remainder of the time the well produces without reworking. During reworking operations, the amount of the bond or letter of credit shall be maintained at fifty thousand dollars (\$50,000.00).

An operator drilling or reworking between one (1) and five (5) wells at any given time, may elect to provide a blanket bond or letter of credit, in the principal minimum amount of one hundred fifty thousand dollars (\$150,000.00). If the operator drills or reworks more than five (5) wells at a time, the blanket bond or letter of credit shall be increased in increments of fifty thousand dollars (\$50,000.00) per each additional well. Once the wells are in the producing stage and all drilling operations have ceased, the operator may elect to provide a blanket bond or letter of credit for the remainder of the time the well produces, without reworking, as follows:TABLE INSET:

TABLE INSET:

Number of Producing Wells	Blanket Bond/Letter of Credit Amount Required
Up to 75 wells	\$100,000.00
75 to 150 wells	150,000.00
More than 150 wells	200,000.00

If at any time after no less than a 15-day written notice to the operator and a public hearing, the city council shall deem any operator's bond or letter of credit to be

insufficient, it may require the operator to increase the amount of the bond or letter of credit up to a maximum of two hundred fifty thousand dollars (\$250,000.00) per well.

d. Whenever the inspector finds that a default has occurred in the performance of any requirement or condition imposed by this chapter, a written notice shall be given to the operator. Such notice shall specify the work to be done, the estimated cost and the period of time deemed by the inspector to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the city one hundred twenty-five (125) percent of the estimated cost of doing the work as set forth in the notice. In no event, however, shall the cure period be less than thirty (30) days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this chapter.

The city shall be authorized to draw against any irrevocable letter of credit or bond to recover such amount due from the operator. Upon receipt of such monies, the city shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the railroad commission, such additional money may be demanded from the operator as is necessary to properly plug and abandon the well and restore the drill site in conformity with the regulations of this chapter.

e. In the event the operator does not cause the work to be performed and fails or refuses to pay over to the city the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the city against the applicable irrevocable letter of credit or bond, the city may proceed to obtain compliance and abate the default by way of civil action against the operator, or by criminal action against the operator, or by both such methods. In addition, the city may summarily suspend or revoke the gas well permit and require that all operations on the well site immediately cease.

f. When the well or wells covered by said irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this chapter, and in conformity with all regulations of the railroad commission and notice to that effect has been received by the city, or upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

(c) *Insurance.* In addition to the bond or letter of credit required by this chapter, the operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in Texas. In the event such insurance policy or policies are cancelled, the gas well permit shall be suspended on such date of cancellation and the operator's right to operate under such gas well permit shall immediately cease until the operator files additional insurance as provided herein.

(1) General requirements applicable to all policies:

a. The city, its officials, employees, agents and officers shall be endorsed as an "additional insured" to all policies except employers liability coverage under the operator's workers' compensation policy.

b. All policies shall be written on an occurrence basis.

c. All policies shall be written by an insurer with an A-: VIII or better rating by the most current version of the A.M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the city.

- d. Deductibles shall be listed on the certificate of insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.
- e. Certificates of insurance shall be delivered to the City of Hurst, Department of Planning and Development, 1505 Precinct Line Road, Hurst, Texas 76054, evidencing all the required coverages, including endorsements, prior to the issuance of a gas well permit.
- f. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the city.
- g. Any failure on part of the city to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
- h. Each policy shall be endorsed to provide the city a minimum 30-day notice of cancellation, nonrenewal, and/or material change in policy terms or coverage. A ten-day notice shall be acceptable in the event of nonpayment of premium.
- i. During the term of the gas well permit, the operator shall report to the inspection services provider(s), in a timely manner, any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- j. Upon request, certified copies of all insurance policies shall be furnished to the city.

(2) *Standard commercial general liability policy.* This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum combined single limit of one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.

(3) *Excess or umbrella liability.*

Five million dollars (\$5,000,000.00) excess, if the operator has a stand-alone environmental pollution liability (EPL) policy.

Ten million dollars (\$10,000,000.00) excess, if the operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution.

(4) *Environmental pollution liability coverage.*

a. Operator shall purchase and maintain in force for the duration of the gas well permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least one million dollars (\$1,000,000.00) per loss, with an annual aggregate of at least ten million dollars (\$10,000,000.00).

b. Coverage shall apply to sudden and accidental 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.

(5) *Control of well.* The policy shall cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents.

Five million dollars (\$5,000,000.00) per occurrence/no aggregate, if available, otherwise an aggregate of ten million dollars (\$10,000,000.00).

Five hundred thousand dollars (\$500,000.00) sub-limit endorsement may be added for damage to property for which the operator has care, custody and control.

(6) Workers compensation and employers liability insurance.

- a. Workers Compensation benefits shall be Texas Statutory Limits.
- b. Employers liability shall be a minimum of five hundred thousand dollars (\$500,000.00) per accident.
- c. Such coverage shall include a waiver of subrogation in favor of the city and provide coverage in accordance with applicable state and federal laws.

(7) *Automobile liability insurance.*

- a. Combined single limit of one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.
- b. Coverage must include all owned, hired and not-owned automobiles.

(8) *Certificates of insurance.*

- a. The company must be admitted or approved to do business in the State of Texas, unless the coverage is written by a surplus lines insurer.
- b. The insurance policies must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO, or an equivalent policy form acceptable to the city, with the exception of environmental pollution liability and control of well coverage.
- c. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
- d. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the city. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NONRENEWED 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".
- e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

(d) *Indemnification and express negligence provisions.* Each gas well permit issued by the city shall include the following language:

"Operator does hereby expressly release and discharge all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or assigns may have, or claim to have, against the City of Hurst, and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, 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. The operator shall fully defend, protect, indemnify, and hold harmless the City of Hurst, Texas, its departments, agents, officers, servants, employees, successors, assigns, or 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 Hurst, Texas, 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. The operator agrees to indemnify and hold harmless the City of Hurst,

Texas, its departments, 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, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the City of Hurst occurring on the drill 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 negligence of the City of Hurst occurring on the drill 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 Hurst, Texas, and/or its departments, agents, officers, servants, or employees from the consequences of the negligence of the City of Hurst, 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.

/s/ _____

Operator's Authorized Representative"

The operator shall sign this release and indemnity agreement before issuance of a gas well permit.

(e) *Notice.* The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this chapter may be served in person or by registered or certified mail. Every operator shall within ten (10) days notify the inspection services provider(s) in writing of any change in such agent or mailing address unless operations in the city are discontinued and abandonment is complete.

(Ord. No. 1990, § 2, 7-25-06)

Secs. 12-370-12-375. Reserved.

DIVISION 4. ON-SITE AND TECHNICAL REGULATIONS

Sec. 12-376. Technical regulations.

(a) *On-site requirements.*

(1) *Abandoned wells.* All wells shall be abandoned in accordance with the rules of the 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. No structures shall be built over an abandoned well.

(2) *Blowout prevention.* In all cases, blowout prevention equipment shall be used on all wells being drilled, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout during gas operations as required by and in conformance with the requirements of the railroad commission and the recommendations of the American Petroleum Institute. The operator must equip all drilling wells with adequate blowout preventers, flow lines and valves commensurate with the working pressures involved as required by the railroad commission.

(3) *Compliance.* Operator shall comply at all times with all applicable federal, state and city requirements.

(4) *Discharge.* No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances 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 rights-

of-way, alleys, streets, lots, storm drain, ditch or sewer, sanitary drain or any body of water or any public or private property in the city.

(5) *Drill stem testing.* All open hole formation or drill stem testing shall be done during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate gas separator to storage tanks and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.

(6) *Dust, vibration, odors.* All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of gas and other hydrocarbon substances in urban areas. All equipment used shall be so constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

(7) *Electric lines.* All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.

(8) *Electric motors.* Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the city ordinances and the appropriate national codes.

(9) *Emergency response plan.* Prior to the commencement of any gas or other hydrocarbons production activities, operator shall submit to the inspection services provider(s) and fire marshal an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of gas wells. Said plan shall use existing guidelines established by the railroad commission, Texas Commission on Environmental Quality, Department of Transportation and/or the Environmental Protection Agency.

(10) *Equipment painted.* All production equipment on the site shall be painted and maintained at all times, including pumping units, storage tanks, buildings and structures.

(11) *Fire prevention; sources of ignition.* Firefighting apparatus and supplies as approved by the fire marshal and required by any applicable federal, state, or local law shall be provided by the operator, at the operator's cost, and shall be maintained on the drilling site at all times during drilling and production operations. The operator shall be responsible for the maintenance and upkeep of such equipment. 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.

(12) *Fresh water wells.* It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located within two hundred (200) feet of any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.

The operator of a gas well shall provide the inspection services provider(s) with a "pre-drilling" and "post-drilling" water analysis from any fresh water well within five hundred (500) feet of the gas well.

Within one hundred eighty (180) days of its completion date, each gas well shall be equipped with a cathodic protection system to protect the production casing from external

corrosion. The inspector may approve an alternative method of protecting the production casing from external corrosion.

(13) *Gas emission or burning restricted.* No person shall allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the railroad commission. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by law or as permitted by the railroad commission, then such vent or open flame shall not be located closer than three hundred (300) feet from any building not used in operations on the drilling site and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.

(14) *Grass, weeds, trash.* All drill and operation sites shall be kept clear of high grass, weeds, and combustible trash within a radius of one hundred (100) feet around any gas tank or tanks or producing wells.

(15) *Hazardous plan.* Hazardous materials management plan shall be on file with the fire marshal and the inspector.

(16) *Lights.* No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within one thousand (1,000) feet.

(17) *Muffling exhaust.* Exhaust from any internal combustion engine, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.

All formation fracturing operations shall be conducted during daylight hours unless the operator has notified the inspection services provider(s) that fracturing will occur before or after daylight hours to meet safety requirements.

(18) *Pits.* Lined earthen mud or circulating pits shall be used. Such pits and contents shall be removed from the premises and the drilling site within sixty (60) days after completion of the well.

(19) *Private roads and drill sites.* Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site itself shall be at least twenty-four (24) feet wide, have an overhead clearance of fourteen (14) feet and shall be surfaced with asphalt or concrete. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the inspection services provider(s) and the director of public works after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operations; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind.

(20) *Salt water wells.* No salt-water disposal wells shall be located within the city.

(21) *Signs.*

- a. A sign shall be immediately and prominently displayed at the gate on the fencing erected pursuant to section 12-376. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the railroad commission, shall have a surface area of not less than two (2) square feet nor more than four (4)

square feet and shall be lettered with the following:

1. Well name and number;
2. Name of operator;
3. The emergency 911 number; and
4. Telephone numbers of two (2) persons responsible for the well who may be contacted in case of emergency.

b. Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by the fire chief/marshal of the city. Sign lettering shall be four (4) inches in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the fire department and the operator, well and lease designations required by the railroad commission.

c. No other signs shall be permitted on the site.

(22) *Storage of equipment.* On-site storage is prohibited on the operation site. No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site.

No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for drilling or production operations on the site. The fire marshal shall be the person that determines whether equipment on the site shall constitute a fire hazard.

No refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises. This shall not be deemed to exclude a conventional gas separator or dehydrator.

(23) *Storage tanks.* All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless the fire marshal approves other specifications. All storage tanks shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be a minimum of three (3) feet in height and one and one-half (1 1/2) times the contents of the largest tank in accordance with the fire code, and buried at least one (1) foot below the surface. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tank.

All tanks shall be set back pursuant to the standards of the Texas Railroad Commission and the National Fire Protection Association, but in all cases, shall be at least twenty-five (25) feet from any public right-of-way or property line. 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.

No meters, storage tanks, separation facilities, or other above-ground facilities, other than the well head and flow lines, shall be placed in a floodway or the 100-year floodplain.

Tanks must be at least one hundred (100) feet from any church, public building, hospital, public or private school, or combustible structure.

(24) *Tank battery facilities.* Tank battery facilities shall be equipped with a remote foam line and a lightning arrestor system.

(25) *Surface casing.* Surface casing shall be run and set in full compliance with the

applicable rules and regulations of the railroad commission.

(26) *Valves.* Each well must have a shutoff valve to terminate the well's production. The fire department shall have access to the well site to enable it to close the shut-off valve in an emergency.

(27) *Waste disposal.* Unless otherwise directed by the railroad commission, all tanks used for storage shall conform to the following:

Operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, flame arrester and pressure relief valve. All tanks must be enclosed by a fence applicable to the issued permit classification. No tank battery shall be within one hundred (100) feet of any dwelling or other combustible structure.

Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, reworking or deepening of any well shall be discharged into a lined earthen pit. All disposals must be in accordance with the rules of the railroad commission and any other appropriate local, state or federal agency.

Unless otherwise directed by the railroad commission, waste materials shall be removed from the site and transported to an off-site disposal facility not less often than every thirty (30) days. Water stored in on-site tanks shall be removed as necessary.

All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the state, this chapter and any other applicable ordinance of the city.

(28) *Watchman.* The operator must keep a watchman or security personnel on site during the drilling or reworking of a well when other workmen are not on the premises.

(b) *Well, tank batteries, well facilities, and equipment setbacks.* It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:

- (1) Within twenty-five (25) feet from any outer boundary line of the well site; or
- (2) Within twenty-five (25) feet from any storage tank, or source of ignition; or
- (3) Within seventy-five (75) feet of any public street, road, highway or future street, right-of-way or property line; or
- (4) Within six hundred (600) feet from any public park (unless prior consent is obtained from the city council) or from any residence, church, public building, hospital, commercial, or public or private school or building used, or designed and intended to be used, for human occupancy; or
- (5) Within one hundred (100) feet of any building accessory to, but not necessary to the operation of the well; or
- (6) Within two hundred (200) feet to any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.

The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any object listed in subsections (1) through (6) above.

The distances set out in subsection (1), (3), (4), or (6) above may be reduced at the discretion of the city council, but never less than two hundred (200) feet from any dwelling or any other building used, or designed and intended to be used, for human occupancy without the unanimous consent of the property owners within a 200-foot radius around said well and the affirmative vote of not less than three-fourths ($\frac{3}{4}$) of all the members of the city council. For protection of the public health, safety and welfare, the city council may impose additional requirements for a reduction of such distance. The reduction of the distance

requirement for fresh water wells is subject to the railroad commission regulations and any other state or federal requirements.

Tank batteries, well facilities and equipment shall be located at least one hundred (100) feet from any public park (unless prior consent is obtained from the city council) or from any residence, church, public building, hospital, commercial or public or private school for which a building permit has been issued on the date the application for a drilling permit is filed. The distance shall be calculated from the closest tank batteries, well facilities and/or equipment, in a straight line, without regard to intervening structures or objects, to the property line of the building.

(c) *Installation of pipelines on, under or across public property.* The operator shall apply to the city for a franchise or other city council approved agreement on, over, under, along or across the city streets, sidewalks, alley, rights-of-way and other city property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may be continued under any gas well permit issued pursuant to this chapter. Operator shall:

- (1) Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such rights-of-way.
- (2) Furnish to the director of planning and development a plat showing the location of such pipelines.
- (3) Construct such lines out of pipe in accordance with the city codes and regulations consistent with Barlow's Formula for proper casing and ventilation.
- (4) Grade, level and restore such property to the same surface conditions, as nearly as practicable, as existed when operations for the drilling of the well were first commenced.
- (5) Comply with all city ordinances including without limitation, the right-of-way chapter of the city Code.

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 projected streets or alleys, and no street or alley shall be blocked or encumbered or closed due to any exploration, drilling or production operations unless prior consent is obtained from the inspection services provider. Any consent from the inspection services provider shall be temporary in nature and state the number of hours and/or days that any street or alley may be blocked, encumbered or closed.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-377. Fences, screening.

(a) *Fences/screening.* Fences shall not be required on drill sites during initial drilling, completion or reworking operations as long as 24-hour on-site supervision is provided. A secured entrance gate shall be required. All gates are to be kept locked when the operator or his employees are not within the enclosure. Within thirty (30) days after production has been established, all operation sites shall be completely enclosed by a chain link fence with slats according to the requirements of the gas well permit, as follows:

(b) *Fencing specifications.* The fence shall be at least eight (8) feet in height, but not greater than ten (10) feet.

(c) *Gate specifications.* All fences shall be equipped with at least one (1) gate. The gate shall meet the following specifications:

- (1) Each gate shall be not less than twelve (12) feet wide and be composed of two (2) gates, each of which is not less than six (6) feet wide, or one (1) sliding gate not less than

twelve (12) feet wide. If two (2) gates are used, gates shall latch and lock in the center of the span;

(2) The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site; and

(3) Operator must provide the fire marshal with a "Knox Padlock" or "Knox Box with a key" to access the well site to be used only in case of an emergency.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-378. Cleanup and maintenance.

(a) *Cleanup after well servicing.* After the well has been completed or plugged and abandoned, the operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within sixty (60) days.

(b) *Cleanup after spills, leaks and malfunctions.* After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the fire chief or fire marshal and the inspection services provider(s) all waste materials from any public or private property affected by such spill, leak or malfunction. Cleanup operations must begin immediately. If the owner fails to begin site cleanup within twenty-four (24) hours, the city shall have the right to contact the railroad commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.

(c) *Free from debris.* The property on which a well site is located shall at all times be kept free of debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other waste material within a radius of one hundred (100) feet around any separators, tanks and producing wells.

(d) *Painting.* All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the inspection services provider shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of brown, or other neutral colors approved by the inspector.

(e) *Blowouts.* In the event of the loss of control of any well, operator shall immediately take all reasonable steps to regain control regardless of any other provision of this chapter and shall notify the inspection services provider(s) as soon as practicable. The inspection services provider(s) shall certify in writing, briefly describing the same, to the official designated by the city manager. If the inspection services provider(s), in his opinion, believes that danger to persons and property exists because of such loss of well control and that the operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the inspection services provider(s) may then employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the inspection services provider(s) deems necessary to regain control of such well. The city shall then have a valid lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the city pursuant to such action of the inspection services provider(s) in gaining control of said well.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-379. Plugged and abandoned wells.

(a) *Surface requirements for plugged and abandoned well.* Whenever abandonment occurs

pursuant to the requirements of the railroad commission, the operator so abandoning shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this chapter.

(b) Abandonment shall be approved by the inspection services provider(s) after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the inspection services provider(s):

- (1) The derrick and all appurtenant equipment thereto shall be removed from drill site;
- (2) All tanks, towers, and other surface installations shall be removed from the drill site;
- (3) All concrete foundations, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the railroad commission;
- (4) All holes and depressions shall be filled with clean, compactable soil;
- (5) All waste, refuse or waste material shall be removed from the drill site; and
- (6) During abandonment, operator shall comply with all applicable sections in this chapter.

(c) *Abandoned well requirement.* The operator shall furnish the following at the discretion of the inspection services provider(s):

- (1) A copy of the approval of the railroad commission confirming compliance with all abandonment proceedings under the state law; and
- (2) A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

(d) *Abandonment requirements prior to new construction.* All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the railroad commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-380. Technical advisor.

The city may from time to time employ a technical advisor or advisors who are experienced and educated in the gas industry or the law as it pertains to gas matters. The function of such advisor(s) shall be to advise, counsel or represent the city on such matters relating to gas operations within the city as the city may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the city. In the event such technical advisor(s) is employed for the purpose of advising, counseling or representing the city relative to an operator's unique and particular set of circumstances, case or request relating to this chapter, then the cost for such services of such technical advisor(s) shall be assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this chapter. Prior to the employment of a technical advisor, the city shall inform the operator of the intended scope of work and the estimated costs and expenses. The employment of a technical advisor shall be approved by the city council.

(Ord. No. 1990, § 2, 7-25-06)

DIVISION 5. APPEALS AND PENALTY

Sec. 12-381. Appeals.

(a) The city council shall have and exercise the power to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the issuance of a gas well permit or the revocation or suspension of any gas well permit issued hereunder. Any person or entity whose application is denied by the inspection services provider(s) (other than for distance requirements set out in this chapter) or whose gas well permit is suspended or revoked or whose well or equipment is deemed by the inspector to be abandoned may, within thirty (30) days of the date of the written decision of the inspection services provider(s) file an appeal to the city council in accordance with the following procedure:

(1) An appeal shall be in writing and shall be filed in triplicate with the official designated by the city manager. The grounds for appeal must be set forth specifically, and the error described, by the appellant.

(2) Within forty-five (45) days of receipt of the records, the official designated by the city manager shall transmit all papers involved in the proceeding, place the matter on the city council agenda for hearing and give notice by mail of the time, place and purpose thereof to appellant and any other party who has requested in writing to be so notified. No other notice need be given.

(b) Appeal fees shall be required for every appeal in the amount as approved by action of the city council.

(Ord. No. 1990, § 2, 7-25-06)

Sec. 12-382. Penalty.

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 chapter.

(2) Fail to comply with any condition set forth in a gas well permit issued under this chapter;
or

(3) Violate any provision or requirement set forth in this chapter.

(Ord. No. 1990, § 2, 7-25-06)

Secs. 12-383--12-390. Reserved.