

Ordinances Governing  
**GAS DRILLING AND PRODUCTION**

in the  
CITY OF ARLINGTON  
TEXAS

Ordinance No. 21-012

(April 13, 2021)

(Chapter Designator: GAS DRILLING AND PRODUCTION)

**ORDINANCE HISTORY**

<u>Number</u>	<u>Date of Adoption</u>	<u>Comments</u>
03-120	11/25/03	Establishment of a Gas Drilling and Production Chapter relative to the management of drilling and production of gas within the city limits.
05-113	12/20/05	Amend the Gas Drilling and Production Chapter in its entirety to include additional duties of the inspector, additional documents to be submitted when applying for a gas well permit, and revision to language pertaining to the cost of applying for a permit (which will result in an elimination of the cap on the fee amount).
07-074	10/23/07	Amend the Gas Drilling and Production Chapter in its entirety.
08-088	09/30/08	Amend <b>Article V, Gas Well Permits, Section 5.02, Gas Well Permit Application and Filing Fees, Subsection (B)</b> , related to applications for and annual administration of gas well permits; and <b>Section 5.03, Gas Well Permit Review Procedure, Subsection (G)</b> , related to notification signs prior to public hearings on gas well permit applications.
10-012	01/12/10	Amend <b>Article V, Gas Well Permits, Section 5.02, Gas Well Permit Application and Filing Fees</b> , by the addition of <b>Subsection (D)</b> ; amend <b>Article VI, Insurance, Bond and Indemnity, Section 6.01, Bond, Letters of Credit, Indemnity, Insurance</b> , by the addition of <b>Subsection (F)</b> ; amend <b>Article VII, On Site and Technical Regulations, Section 7.01, Technical Regulations, Subsections (A)(8) and (A)(19)</b> , the addition of <b>Subsection (K)(4)</b> , and the amendment of <b>Subsection (L)(2)</b> , relative to a requirement that final plans or other documents that will be archived must be submitted in electronic format; amend <b>Article X, Penalty, Section 10.01, Penalty</b> , relative to updated penalty provisions.

**ORDINANCE HISTORY**

<b><u>Number</u></b>	<b><u>Date of Adoption</u></b>	<b><u>Comments</u></b>
11-068	12/06/11	Amend the Gas Drilling and Production Chapter in its entirety.
19-008	03/19/19	Amend <b>Articles II, V, and VII</b> ; relative to requiring additional notice, and mitigating adverse noise and traffic related nuisances; updating all references from the Department of Community Development and Planning to the Department of Planning and Development Services; and updating all references from the Zoning Chapter to the Unified Development Code.
19-031	05/21/19	Amend <b>Article VII</b> , relative to external setback requirements.
21-012	04/13/21	Amend <b>Article II, <u>Definitions</u>, Section 2.01, <u>Definitions</u></b> , by the addition of the definition of "Daycare" and the amendment of the definition of "Drilling Zone"; and <b>Article VII, <u>On Site and Technical Regulations</u>, Section 7.01, <u>Technical Regulations</u>, Subsection (B)(1)(a)</b> , relative to external setback requirements.

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**ARTICLE I****GENERAL PROVISIONS****Section 1.01 Short Title**

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

**Section 1.02 Purpose**

The exploration, development, and production of gas in the City is an activity that 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 that the purpose of this Ordinance is to establish reasonable and uniform limitations, safeguards, and regulations for present and future operations on private and public property that will serve as minimum standards for 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 and public property and mineral rights owners; protect the quality of the environment; and encourage the orderly production of available mineral resources.

This Chapter will be considered minimum standards for private and public property. The City Council may approve permits, leases, and other documents pertaining to private and public property that contain provisions that modify the minimum standards in this Chapter to further protect the public health, safety, and general welfare of the public.

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

(Amend Ord 11-068, 12/6/11)

**ARTICLE II****DEFINITIONS****Section 2.01 Definitions**

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

***Abandonment.*** “Plugging” as defined by the RRC and includes the plugging of the well, abandoned or otherwise, and the restoration of any drill site(s) as required by this Ordinance.

***Ambient noise level.*** The all encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

***API.*** American Petroleum Institute.

***Building.*** Any structure. The structure may serve for the support, shelter, or enclosure or partial enclosure of persons, animals, chattels, or movable property of any kind including pools.

***Building Official.*** The officer or other designated authority charged with administration and enforcement of this Chapter, or the Building Official’s duly authorized representative.

***Church.*** 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.*** The City of Arlington.

***City Code.*** The Code of the City.

**City Attorney.** The City Attorney of the City.

**City Manager.** The City Manager of the City or his/her designee.

**Closed Loop Mud System.** A series of above-ground tanks used to store, process, and recycle drilling mud, cuttings, and other fluids. This system is used in place of the traditional earthen pits at a drilling operation.

**Completion.** The process or stage of finishing a well so that it is ready to produce natural gas.

**Day Care.** A facility licensed by the state and the city that provides care, training, education, custody, treatment or supervision for more than six children under 14 years of age, and for less than 24 hours per day, with a city-issued Certificate of Occupancy. (Amend Ord 21-012, 4/13/21)

**Daytime.** The period from 7:00 a.m. to 6:00 p.m. Central Standard Time and 7 a.m. to 8 p.m. Central Daylight Saving Time.

**Decibel (dB).** A unit of measurement of noise intensity. The measurements are based on the energy of the sound waves, and the units are logarithmic.

**Drilling.** 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.** 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.** The premises used during the drilling, completion, or re-working of a well or wells located there or any associated operation.

**Drilling Zone.** The area approved by the City Council that encloses all the wells on the drill site. In the existing drill sites that do not yet have a Drilling Zone approved by Council, any regulation in this code requiring a distance measurement from a protected use to a drilling zone shall instead be measured from a protected use to the closest existing gas wellhead. (Amend Ord 21-012, 4/13/21)

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

**EPA.** Environmental Protection Agency.



**FEMA.** Federal Emergency Management Agency.

**Fire Chief.** The Chief of the Fire Department of the City.

**Fire Department.** The Fire Department of the City.

**Fire Code.** The International Fire Code as amended by the City of Arlington Fire Chapter to the extent not in direct conflict with current or future federal and state law or regulations including the Texas Railroad Commission, Texas Commission on Environmental Quality or successor entities.

**Fire Inspector.** A Fire Prevention and Life Safety Inspector of the Fire Department, or other designee of the Fire Chief that enforces this Chapter or the Fire Code.

**FIRM.** Flood Insurance Rate Map.

**Flowback.** The process of allowing fluids to flow from the well following a treatment, either in preparation for a subsequent phase of treatment or in preparation for cleanup and returning the well to production.

**Fracture Stimulate (Frac).** To inject water, steam, gas, or other substances into a well to improve hydrocarbon recovery.

**Gas.** 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 or well.** Any well drilled, to be drilled, or used for the intended or actual production of natural gas or other hydrocarbons.

**Hospital.** 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.

**Inspector.** The Gas Well Inspector, Building Official designee, Gas Well Coordinator, Fire Chief designee, or other designee of the City Manager of the City that enforces this Chapter.

**NFPA.** National Fire Protection Association.

**Nighttime.** The period between 6:00 p.m. and 7:00 a.m. Central Standard Time and 8 p.m. to 7 a.m. Central Daylight Saving Time.

**Operator.** For each well, the person listed on the appropriate City application forms for a gas well that is, or will be, actually in charge and in control of drilling, maintaining, completing, 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 Ordinance, 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 Ordinance, the owner of the fee mineral estate in the premises shall be deemed an Operator.

**P&DS.** Planning and Development Services Department. (Amend Ord 19-008, 3/19/19)

**Person.** 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.** Every person, firm, co-partnership, association, partnership, corporation or society; and includes both singular and plural and the masculine shall include the feminine gender.

**Protected Use.** A residence, religious institution, hospital building, medical and dental office, nursing home, personal care facility, supervised living facility, public or private school, day care, or public park.

**Public Parks, Playground, or Golf Course.** 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 water courses.

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

**RRC.** The Railroad Commission of Texas or successor entity.

**Re-drill.** 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.** A house, duplex, apartment, townhouse, condominium, mobile home, or other building intended for dwelling purposes, whether occupied or not, including those for which a building permit has been issued prior to the date an application for a Gas Well Permit is filed with the Inspector.

**Re-work.** To restore production when it has fallen off substantially or ceased altogether through clean out, re-completion, or re-entry of an existing well, or the replacement of well liners, tubing, or casing.

**Right-of-way (ROW).** 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 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 ROW. The term applies regardless of whether the public ROW is paved or unpaved.

**Salt Water Disposal Well.** A well used for the purpose of injecting produced or flowback water back into the ground.

**Seismic Survey.** An exploration method in which low frequency sound waves are generated on the surface to find subsurface rock structures that may contain hydrocarbons. Interpretation of the survey record can reveal possible hydrocarbon-bearing formations.

**State.** The State of Texas.

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

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

**TCEQ.** Texas Commission on Environmental Quality.

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

**Well servicing rig.** Equipment and machinery assembled primarily for the purpose of any well work involving pulling or running tubulars or sucker rods, to include but not be limited to redrilling, completing, recompleting, workover, and abandoning operations. (Amend Ord 19-008, 3/19/19)

**ARTICLE III****INSPECTOR/COORDINATOR****Section 3.01 Inspector/Coordinator**

- A. The City Manager shall designate officials who shall enforce the provisions of this Chapter. The City Manager may retain Gas Inspector(s) and hereby designates the Building Official, Fire Chief and other City Inspectors as needed to enforce this Chapter. Any independent contractor Inspector shall have a degree in petroleum engineering with experience in drilling and production of natural gas or demonstrate a proven background in the drilling, production, and operation of natural gas development, drilling, and production. The Inspector 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. Failure of any person to comply with any such order or directive shall constitute a violation of this Ordinance.
- B. The Inspector shall have the authority to enter and inspect any premises covered by the provisions of this Ordinance 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 Inspector shall constitute a violation of this Chapter. The Inspector 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 RRC.
- C. The Inspector shall have the authority to request and receive any records, including any records sent to the RRC, reports and the like, relating to the status or condition of any permitted gas well necessary to establish and determine compliance with the applicable Gas Well Permit. Failure of any person to provide any such requested material shall be deemed a violation of this Ordinance.
- D. The Inspector shall have the authority to allow equivalent alternatives to the technical standards of this Ordinance if the Operator has demonstrated to the Inspector's satisfaction that the alternatives provide equal or greater protection of the environment and the public.

To determine the acceptability of as equivalent technologies, processes, products, facilities, materials and uses as they pertain to gas matters, the Inspector is authorized to require the Operator to provide, without charge to the City, a technical opinion and report. The opinion and report shall be prepared by a

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qualified engineer, specialist, laboratory or specialty organization acceptable to the Inspector. The opinion and report shall analyze the properties of the technology, process, product, facility, material, or use and provide a recommendation as to its applicability in the Operator's particular set of circumstances. The Inspector is authorized to require design submittals to be prepared by, and bear the stamp of, a registered design professional.

- E. The Inspector shall have the authority to require the use of soundproofing methods to ensure compliance with the noise restrictions required by this Ordinance.

(Amend Ord 11-068, 12/6/11)

**ARTICLE IV**

**AGENT**

**Section 4.01 Operator's Agent**

Every Operator of any gas well shall designate an agent upon whom all orders and notices provided in this Ordinance 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.

(Amend Ord 11-068, 12/6/11)

**ARTICLE V**

**GAS WELL PERMITS**

**Section 5.01 Gas Well Permit Required**

- A. Approval of a specific use permit is required before a Gas Well Permit can be obtained from the City. The specific use permit shall establish the location of the drilling zone, and plans for fencing and landscaping. The specific use permit may address reductions in setbacks in accordance with Section 7.01.B.
- B. It shall be an offense 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, re-working, completion, or operation of any such well or to conduct any activity related to the production of gas without first obtaining a Gas Well Permit, or other appropriate permit in addition to a Gas Well Permit, issued by the City in accordance with this Ordinance. Activities include, but are not limited to re-working, initial site preparation, drilling, operation, construction of rigs or tank batteries, and fracturing. A permit shall be required for seismic surveys on public property. Written notice must be given to the Inspector no less than five business (5) days before the activities begin.
- C. A Gas Well Permit shall not constitute authority for the re-entering of an abandoned well. An Operator must obtain a new Gas Well Permit in accordance with the provisions of this Ordinance prior to drilling, re-working, or re-entering an abandoned well.
- D. When a Gas Well Permit has been issued to the Operator for the drilling, re-drilling, deepening, re-entering, activating, or converting of a well, such Gas Well Permit shall constitute sufficient authority for drilling, completion, operation, production gathering, or production maintenance, repair, re-working, testing, plugging, and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well, provided, however, that 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.
- E. Any person who intends to re-work a permitted well using a drilling rig, or to recomplete or frac a permitted well after initial completion or to conduct seismic surveys or other exploration activities, shall give written notice to the Inspector no less than five business (5) days before the activities begin. The notice must identify where the activities will be conducted and must describe the activities in

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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. 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 Inspector determines that an inspection is necessary, the Operator will pay the City for the inspection.

The following requirements shall apply to all fracing operations performed on a well: 1) at least five (5) business days before operations commence, the Operator shall post a sign at the entrance of the drill site advising the public of the date the operations will commence; and 2) 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.

The following requirements shall apply to all flowback operations performed on a well: 1) the Operator shall give written notice to the Inspector no less than five (5) business days before flowback operations will be conducted; 2) flowback operations to recover fluids used during fracing may be performed 24 hours per day and seven days per week; 3) truck traffic shall be permitted only during daytime, non-restricted hours; and 4) all other requirements must be followed.

In addition to the notices required above, for all gas well drilling zones within six hundred (600) feet of a protected use, after April 1, 2019, the Operator shall give written notice to all residents living within one thousand, three hundred twenty (1,320) feet of a drilling zone no less than five (5) business days before conducting the following operations at a gas well on site: drilling, fracing, flowback, or re-working operations that require the use of a well servicing rig. (Amend Ord 19-008, 3/19/19)

- F. 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; provided, however, that said Gas Well Permit is administratively approved. An initial Gas Well Permit approved concurrently with a new Specific Use Permit or an amended Specific Use Permit establishing a drilling zone shall automatically terminate, unless extended, if drilling is not commenced within two (2) years from the date of the issuance of the initial Gas Well Permit(s). If that gas well has not been drilled within the first year of the term, the Operator shall hold a public meeting with all residents within one thousand, three hundred twenty (1,320) feet of the established drilling zone for the purpose of informing the public of its drilling schedule prior to commencement of drilling. (Amend Ord 19-008, 3/19/19)



- A Gas Well Permit may be extended by the Inspector for an additional one hundred eighty (180) days upon request by the Operator, proof that the specifics of the issued Gas Well Permit have not changed, and payment of an extended permit fee.
- G. The Gas Well Permits required by this Ordinance are in addition to and are not in lieu of any permit that may be required by the Unified Development Code, the Fire Code or any other provision of this Code, or by any other governmental agency. (Amend Ord 19-008, 3/19/19)
- H. No Gas Well Permit shall be issued for any well to be drilled within any floodway, as defined in the Flood Damage Prevention chapter of the City's Code of Ordinances, and as identified by FEMA on the most current FIRM. Tanks and equipment located in any floodplain must also meet the minimum requirements of the Flood Damage Prevention chapter.
- I. A Gas Well Permit shall not be issued for any well to be drilled until the Operator has paid a road damage fee, as established by resolution from time to time by the City Council and the most current resolution is incorporated herein for all purposes. The road damage fee shall be paid by the Operator to the City prior to the commencement of any activity under the Gas Well Permit. The road damage fee is based on the *Road Damage Assessment Study* prepared for the City, as amended, and available with P&DS. The road damage fee shall be calculated based on the access lane miles for the appropriate road type, the assessment per lane mile, and the number of lane miles included in each gas well permit application. Replacement costs for asphalt and/or concrete road segments shall be determined from current cost per square yard of road surface material, including installation and labor. (Amend Ord 19-008, 3/19/19)
- J. By acceptance of any Gas Well Permit issued pursuant to this Ordinance, the Operator expressly stipulates and agrees to be bound by and comply with the provisions of this Ordinance. The terms of this Ordinance 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 Ordinance was set forth verbatim in such Gas Well Permit. The Gas Well Permit shall also include any stipulations or conditions added as part of the approved zoning for the site.
- K. All requirements for permit approval shall comply with applicable state or federal laws, rules or regulations. The requirements of this Article shall be interpreted and applied in accordance with all applicable state or federal laws, rules and regulations.

**Section 5.02 Gas Well Permit Application and Filing Fees**

- A. Every application for a Gas Well Permit issued pursuant to this Ordinance shall be in writing signed by the Operator, or some person duly authorized to sign on his behalf, and filed with the Inspector.
- B. Every application shall be accompanied by a non-refundable permit fee. The permit fee shall be set by resolution of the Arlington City Council and amended from time to time and the most current resolution is incorporated herein for all purposes. The Operator, in addition to the usual application fee, shall pay the City an inspector fee in an amount set by resolution of the Arlington City Council for the services of an inspector and/or technical expert to review the application and/or information supplement, and for the services of staff personnel to perform ongoing inspection and ensure the Operator's compliance with this Chapter. Additional services the City incurs for services of an inspector and/or technical expert shall be paid by the Operator at the standard hourly rate plus expenses.
- C. The application shall include the following information:
  - 1. All application fees and other fees required by this Chapter
  - 2. Completed and signed application form containing at least the following information:
    - a. Date of the application
    - b. Proposed well name
    - c. Surface owner names(s) and address(es) of the drill site
    - d. Mineral Lessee name and address
    - e. Applicant/Operator name and address and if the Operator is a corporation, the state of incorporation, address, officer's names and addresses, registered agent and address and Articles of Incorporation; and if the Operator is a partnership, the names and addresses of the general and limited partners. Copies of any "Doing Business As" filings.
    - f. Name and address of individual designated to receive notice
    - g. Name of Operator representative with supervisory authority over all gas drill site activities and a 24-hour phone number

- h. The name, address and 24-hour phone number of the person to be notified in case of an emergency
  - i. The exact acreage of the drill site and number of wells included in the Gas Well Permit application.
  - j. A legal description of the surface property with lot/block information or abstract and survey.
  - k. A notarized statement signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct.
3. The site plan shall include the following information:
- a. Map showing proposed transportation routes and roads for equipment, supplies, chemicals or waste products used or produced by the gas operation. The map shall include a list of the length of all public roads that will be used for site ingress and egress. The map shall also show the location of any areas to be used for truck staging or storage related to the drill site.
  - b. Aerial exhibit showing the location and description of all buildings within 600 feet of the drilling zone. Include setback reduction support letters if a protected use is within 600 feet of the drilling zone.
  - c. A site plan of the proposed drill site showing the location of all improvements and equipment, including the location of the drilling zone and the proposed well(s) and other facilities, including, but not limited to, fire hydrants proposed to supply water to the site, tanks, storage tanks, pipelines, fencing, lights, floodways, compressors, separators and storage sheds. Indicate proposed pipeline routes on the plan and the water storage proposal for facing.
  - d. 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 buildings and other structures and the measured distance from the drill site to these buildings and structures, temporary and

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permanent fencing and landscaping. Provide distance measurements and general ordinal direction, from drilling zone to the nearest residence, school and park.

4. A description of public utilities required during drilling and operation.
5. A site plan showing fire protection for the site, which shall include public or private hydrants, or indicate an alternate means of fire protection.
6. A detailed site plan of the proposed drill site to include the location of the fire hydrant(s) or reclaimed water connections proposed to supply water to the site; an estimate of the total volume of water desired; and the approximate dates the water supply will be needed on site. Indicate on the plan the water source proposed for both the drilling and fracing stages. A copy of the approved water site plan shall accompany any request for a temporary construction meter. Drilling within 2,000 feet of a reclaimed water line requires connection to reclaimed water line for fracing purposes unless Operator demonstrates that use of reclaimed water is not economically feasible.
7. A copy of any Stormwater Pollution Prevention Plan required by the EPA or City. A copy of the notice of intent shall be submitted to P&DS five (5) days prior to the commencement of any onsite activity. (Amend Ord 19-008, 3/19/19)
8. 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 RRC. Property recorded by plat should reference subdivision, block and lot numbers.
9. A copy of the determination by the TCEQ of the depth of useable quality ground water.
10. The insurance and security requirement documents required under this Chapter. An original of the bond or letter of credit shall be submitted.
11. An Emergency Action Response Plan establishing written procedures to minimize any hazard resulting from drilling, completion, or production of gas wells. Said plan shall use existing best practices regarding protection of the public and be consistent with laws and regulations of the Fire Code, NFPA, RRC, TCEQ, API, Department of Transportation, and/or the Environmental Protection Agency. The Emergency Action Response Plan shall be kept current with any additions, modifications, and/or

amendments concerning all construction related activities, natural gas operations and natural gas production. Updated plans shall be submitted to the Inspector within five (5) business days after any additions, modifications, and/or amendments to said plan(s). A copy of the emergency response plan shall be kept on site. At a minimum, the emergency response plan shall provide for:

- a. Prompt and effective response by the Operator to emergencies regarding leaks or releases that can affect public health, safety and welfare; fire or explosions at or near a gas well; and natural disasters and severe weather.
  - b. Effective means to notify and communicate required and pertinent information to local fire, police and public officials during an emergency.
  - c. The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency.
  - d. Measures to be taken to reduce public exposure to injury and the probability of accidental death or dismemberment.
  - e. Emergency shutdown of a gas well and related site.
  - f. The safe restoration of service and operations following an emergency or incident.
  - g. A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.
  - h. An emergency notifications page that indicates all emergencies must be reported to the Fire Department at 911 and to P&DS. (Amend Ord 19-008, 3/19/19)
  - i. Drive-to-maps from public rights-of-way to the drill site.
12. A Hazardous Materials Management Plan, prepared in accordance with the Fire Code, shall be submitted and be on file with the Fire Department and the Inspector.
  13. A copy of the pre-drilling ambient noise level report. The report shall reference the site, include dates the test was performed, identify the testing equipment used and where it was placed for testing, and include results.

14. A Site Restoration Plan shall be submitted with the initial gas well permit on an approved site. At a minimum, this plan shall document the following:
  - a. The existing conditions of the property prior to drilling activity, including site photographs.
  - b. A detailed description of site restoration methods that will ensure the site is restored to pre-development conditions, including site grading, vegetative restoration, and abandonment of any equipment or facilities.
- D. Any final plans or other documents required by this Chapter that will be archived must be submitted in an electronic format specified by the P&DS Director as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The P&DS Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program. (Amend Ord 19-008, 3/19/19)

**Section 5.03 Gas Well Permit Review Procedure**

- A. Gas Well Permit shall be required if proposed well is to be located within the City limits or extraterritorial jurisdiction on private or public property.
- B. It is the responsibility of the Inspector to review and approve or disapprove all applications for gas well drilling permits based on the criteria established by this Ordinance. The Inspector, within 30 days after the filing of a completed application for the first well on a site and remittance of all fees, insurance and security per the requirements of this Ordinance for a Gas Well Permit, shall determine whether or not the application complies in all respects with the provisions of this Ordinance 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.
- C. The provisions of this Ordinance 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 Inspector.

- D. The Gas Well Permit for the initial well(s) for a drill site must be approved by the City Council. After April 1, 2019, all initial Gas Well Permits shall be applied for concurrently with an application for a new Specific Use Permit or an amended Specific Use Permit establishing a drilling zone. After the initial well(s) are permitted, any future wells proposed for the same site may be approved by the P&DS Director, provided such future wells are to be drilled on and within the approved drilling zone and no deviations from any standards are requested by the Operator. Any wells proposed to be drilled outside the drilling zone will require an amendment to the approved zoning. In addition, the permits may not amend any site conditions established in the approving SUP.

The P&DS Director may, at their discretion, submit a Gas Well Permit at any stage to the City Council for approval or review if the Operator for the specific site has been convicted of a total of two (2) or more violations of this Chapter or any combination of this chapter, the Unified Development Code or the Fire Code within a twelve- (12) month period. (Amend Ord 19-008, 3/19/19)

- E. Within forty-five (45) days of the Inspector's determination that the initial well application complies with all requirements, the Inspector shall schedule the matter for a public hearing 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 forty-five (45) day period shall not begin to run until the Inspector has made a determination that the application complies with all requirements.
- F. No more than thirty (30) days prior to the date of the public hearing before City Council for a Gas Well Permit under this Ordinance, Operator shall publish a copy of the notice as outlined below, at Operator's expense, in one 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 Arlington, Texas, on the \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_, \_\_\_\_\_ filed with the Inspector of the City of Arlington, an application for a Gas Well Permit to drill, complete and operate a well for gas upon property located at \_\_\_\_\_, \_\_\_\_\_ County, Arlington, Texas, more particularly shown on the map of record in Volume \_\_\_\_, Page \_\_, Plat records of \_\_\_\_ County, Texas or per Tax Tract Number \_\_\_\_, \_\_\_\_ County, Texas. The City Council will conduct a public hearing on the request for said permit on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_ o'clock \_\_.m. in the City Council Chambers located at 101 West Abram Street, Arlington, Texas.

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- G. 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 Ordinance, the City shall notify each surface owner of property, as shown by the current tax roll, within one thousand, three hundred twenty (1,320) feet of the approved SUP boundary. The notice shall specify the time, date and location of the public hearing. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. Notice shall be sent to all registered neighborhood associations within one mile of the proposed drill site. (Amend Ord 19-008, 3/19/19)
- H. No more than thirty (30) days prior to the date of the public hearing before the City Council, the Operator shall hold a public meeting with property owners, residents and neighborhood associations. The purpose of the meeting is to give residents an opportunity to review information related to the gas drilling permit request and to ask questions about the project. The Operator shall be responsible for notice of the public meeting, arranging for a meeting place and conducting the meeting. Notice shall be made by depositing the same, property addressed and postage paid, in the United States mail. Each notice shall include the date, time and place of the meeting, and must be mailed at least ten (10) days prior to the meeting to all surface owners within six hundred (600) feet of the approved SUP boundary and to all registered neighborhood associations within one (1) mile of the SUP boundary. The Operator shall provide the Inspector a copy of the notice at least five (5) business days prior to the meeting date. A summary of the meeting and a copy of the sign-in sheets for the meeting must be submitted to the Inspector within five (5) business days after the meeting.
- I. 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 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 ROW, street, roadway or public thoroughfare adjacent to such property.
1. The sign(s) shall indicate that a Gas Well Permit(s) has been requested, and indicate that additional information can be acquired by calling the phone number listed 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 Ordinance.



3. Any sign(s) shall be removed by the Operator or applicant within five (5) days of final action by the City Council.
  4. City personnel will install the required sign upon request of the Operator and after Operator's payment of a sign installation fee in an amount set by resolution of the Arlington City Council
- J. All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.
- K. After a Gas Well Permit application is submitted, the Inspector shall evaluate the public impact of the proposed activity. The Inspector 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 Inspector deems appropriate. The recommendation shall be submitted to the City Council for consideration prior to the public hearing.
- L. At the public hearing and before the City Council considers the merits of the application and the recommendations of the Inspector, the applicant/Operator shall provide evidence of a certificate of publication establishing timely publication of the notice of the hearing, that timely actual notice of the hearing was given to all persons as required by this Ordinance and that the applicant/Operator has otherwise complied with or satisfied all other requirements of this Ordinance, including full and complete compliance with the insurance and security requirements.
- M. The burden of proof on all matters considered in the hearing shall be upon the applicant/Operator.
- N. The City Council shall review the application and any other related information. The City Council shall consider the following in deciding whether to grant an initial Gas Well Permit at a new drilling location:
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 drill site locations;

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4. Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with conditions imposed by the Gas Well Permit;
5. Whether the impact upon the adjacent property and the public by operations conducted in compliance with the Gas Well Permit conditions are reasonable and justified, balancing the following factors:
  - a. The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and
  - b. The availability of alternative drill sites.
- O. The City Council may require an increase in the distance the well is set back from any protected use or require any change in operation, plan, design, layout, or any change in the on-site and technical regulations in Section 7.01 of this Ordinance, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.
- P. 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.
- Q. The City Council may accept, reject or modify the application in the interest of securing compliance with this Ordinance, the City Code and/or to protect the health, safety and welfare of the community.
- R. 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 Inspector in writing of his decision.
- S. A copy of the approved RRC permit to drill and the corresponding Form W-1, P-12, and survey plat for each well must be submitted prior to the issuance of the gas well permit.

#### **Section 5.04 Denial of Gas Well Permit Application**

- A. If the P&DS Director or designee denies a Gas Well Permit application for reasons other than lack of required distance as set out in this Ordinance 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 Inspector to deny the Gas Well Permit, the Operator may: 1) cure those conditions that caused the denial and resubmit the application to the Inspector for approval; or 2) file an appeal to the City Council under the provisions outlined in this Ordinance pursuant to Section 9.01, Appeals of this Ordinance. (Amend Ord 19-008, 3/19/19)
- B. If the P&DS Director or designee determines that all of the provisions of this Ordinance have been complied with by the Operator but that the proposed drill site does not comply with the distance requirements of this Ordinance under the requested Gas Well Permit, the Inspector shall notify the Operator. The Operator may revise the permit to comply or the Inspector shall notify the official designated by the City Manager and the official shall place the request for a Gas Well Permit under this Ordinance on the City Council agenda for public hearing within the next forty-five (45) days. (Amend Ord 19-008, 3/19/19)

#### **Section 5.05 Amended Gas Well Permits**

- A. An Operator may submit an application to the Inspector to amend an existing Gas Well Permit to relocate a drill site that is shown on (or incorporated by reference as part of) the existing Gas Well Permit, or to otherwise amend the existing Gas Well Permit. Any change to a permit, which includes all provisions in the entire application packet of documents, must also go through the amended well permit process, e.g., change in Operator, transfer of lease, amended RRC permit, or pipeline routing. An Operator must submit an application 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.
- B. Applications for amended Gas Well Permits shall be in writing, shall be signed by the Operator, and shall include the following:
1. A non-refundable permit fee as approved by resolution of the Arlington City Council. The Applicant/Operator, in addition to the usual application fee, shall pay the City for the actual cost to the City for the services of an inspector and/or technical expert to review the application and/or information supplement;  
  
Additional services the City incurs for services of an inspector and/or technical expert shall be paid by the Operator.
  2. A description of the proposed amendments;

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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 Inspector to demonstrate compliance with the applicable Gas Well Permit; and
  5. Such additional information as is reasonably required by the Inspector to prevent imminent destruction of property or injury to persons.
- C. All applications for amended Gas Well Permits shall be filed with the 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 shall retain the application fee. 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, and if the proposed activities are in conformance with the applicable Gas Well Permit, then the P&DS Director or designee shall approve the amendment within ten (10) business days after the application is filed. (Amend Ord 19-008, 3/19/19)
- 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 Gas Well Permit, then the P&DS Director or designee 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 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 Gas Well Permit or that was not otherwise taken into consideration by the existing Gas Well Permit, the Inspector may require the amendment to be processed as a new Gas Well Permit application. (Amend Ord 19-008, 3/19/19)
- F. An amended permit shall not be approved if the activities proposed by the amendment seek to modify or change a condition of the approved zoning for the site.
- G. The failure of the P&DS Director or designee 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. (Amend Ord 19-008, 3/19/19)

- H. The decision of the P&DS Director or designee to deny an amendment to a Gas Well Permit shall be provided to the Operator in writing within ten (10) business days after the decision, including an explanation of the basis for the decision. The Operator may appeal any such denial to the City Council. (Amend Ord 19-008, 3/19/19)

**Section 5.06 Suspension or Revocation of Gas Well Permit; Effect**

- A. Operator shall comply at all times with all applicable federal, state and City laws, regulations and rules. If an Operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a Gas Well Permit, the Operator is subject to immediate citation, injunction, abatement or any other remedy permitted by law. When possible under the circumstance, the Inspector or other designated City employee or representative 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.
- B. If the Operator fails to comply within ten days after notice, or fails to comply immediately if there is an imminent health and safety issue as determined by the sole discretion of the P&DS Director or designees, the Inspector may suspend or revoke the Gas Well Permit pursuant to the provisions of this Ordinance. (Amend Ord 19-008, 3/19/19)
- C. No person shall carry on any operations performed under the terms of the Gas Well Permit issued under this Ordinance 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 RRC.
- D. If the Operator does not cure the noncompliance within the time specified in this Ordinance or immediately if there is an imminent health or safety condition, the Inspector may notify the RRC and request that the RRC take any appropriate action.

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- E. Operator may file an appeal in writing directed to the City Council within thirty (30) days of the date of the decision of the Inspector in writing to suspend or revoke a Gas Well Permit.
- F. If an application for a Gas Well Permit is denied by the Inspector, nothing herein contained shall prevent a new permit application from being submitted to the Inspector for the same well.

### **Section 5.07 Annual Inspection and Reporting Requirements**

- A. The Operator shall be required to pay an annual administrative fee for each gas well permit for City costs for the review and inspection of each well's site and permit conditions, insurance documents, emergency response plans and other related items. The annual administrative fee shall be set by resolution of the City Council. The fee shall cover a calendar year period and will be assessed on the anniversary date of the issuance of the permit.
- B. The Operator shall notify the Inspector of any changes to the following information within one 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; and
  - 3. The Operator's Emergency Action Response Plan (including drive-to-maps from public rights-of-way to each drill site).
- C. The Operator shall notify the Inspector 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 business day.
- D. The Operator shall provide a copy of any incident reports or written complaints submitted to the RRC within thirty (30) days after the Operator has notice of the existence of such reports or complaints.
- E. The Operator shall provide an operational status report for every well permitted to the Operator within the City. The report shall include the Well Name, API Number, Lease Name, City Case Number, Commission Permit Number, Commission Lease ID Number and Current Status whether pending, drilling, completing, producing, plugged or abandoned. (Amend Ord 11-068, 12/6/11)

**ARTICLE VI**

**INSURANCE, BOND AND INDEMNITY**

**Section 6.01 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 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. Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the Gas Well Permit.
4. Promptly restore to its former condition any roadway, ROW, or other public property damaged by the gas operation.

**B. Security Instrument: Cash, 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 cash, a 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 is restored, whichever occurs last. 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 Ordinance and other applicable City ordinances. The original bond

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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 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. If the Letter of Credit is for a time period less than the life of the well as required by this Ordinance, the Operator must agree to either renew the Letter of Credit or replace the Letter of Credit with a bond in the amount required by this Ordinance, 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 Letter of Credit to be held by the City as security for Operator's performance of its obligations under this Ordinance.

The City shall be authorized to draw upon such cash, Letter of Credit or bond to recover any fines, penalties, defaults or violations assessed under this Chapter. No interest will be paid on any cash deposited with the City. In addition, the Letter of Credit may be used to draw down City road damage expense to the extent road damage cost exceeds the road damage fee paid with the permit application. 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 the cash, bond or letter of credit shall be as follows:

Number of Wells Per Site	Amount of Security Per Site
1 well	\$100,000
2 – 5 wells	\$150,000
6 or more wells	\$250,000
A cap of \$1,000,000 per site shall apply.	

- 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 unless immediate compliance is needed due to a serious health or safety condition. 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 any 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 Ordinance.

The City shall be authorized to draw against any cash, 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 RRC, 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 Ordinance.

- 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 or any other remedy available by law.
- 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 Ordinance, and in conformity with all regulations of the RRC 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 cash, bond or letter of credit required pursuant to this Ordinance, 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 on all applicable policies. A copy of the endorsement is required for evidence of coverage.
  - b. All policies shall be endorsed with a waiver of subrogation in favor of the City. A copy of the endorsement is required for evidence of coverage.
  - c. All policies shall be written on an occurrence basis where commercially available.
  - d. If coverage is written on a claims made basis, the Operator must maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the Gas Well Permit. The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.
  - e. All policies shall be written by an insurer with an A-: VII 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.
  - f. Deductibles shall be listed on the Certificate of Insurance and shall be on a per occurrence basis unless otherwise stipulated herein.
  - g. Certificates of Insurance shall be delivered to the City of Arlington, Department of Planning and Development Services, 101 West Abram Street, Arlington, Texas 76010, and to Risk

Management, 101 West Abram Street, Arlington, Texas 76010 evidencing all the required coverages, including endorsements, prior to the issuance of a Gas Well Permit. (Amend Ord 19-008, 3/19/19)

- h. Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
- i. Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.
- j. During the term of the Gas Well Permit, the Operator shall report, in a timely manner, to the Inspector any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- k. Upon request, certified copies of all insurance policies shall be furnished to the City.
- l. Irrespective of the requirements as to insurance to be carried, the insolvency, bankruptcy or failure of any insurance company to pay claims accruing shall not be held to waive any of the provisions of this Article.
- m. Operator shall pay promptly all premiums for such insurance in strict accordance with its obligations to its carrier and maintain the required coverage in full effect so long as the permit is valid.
- n. Failure to keep such policies in full force and effect, in accordance with the terms hereof, shall be unlawful.

## 2. Commercial General Liability Policy

This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution (with discovery and reporting periods of not less than fifteen (15) days and thirty (30) days respectively), blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum of One Million (\$1,000,000) dollars per occurrence.

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#### 3. Excess or Umbrella Liability

Insurance limits in a minimum of Ten Million Dollars (\$10,000,000). Coverage is to be at least as broad as, applies of and follows form of the primary liability coverage required for commercial general liability, auto liability and employer's liability. 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 Five Million (\$5,000,000) dollars per loss.

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.

c. The Operator shall maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the Gas Well Permit.

The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.

#### 5. Control of Well Coverage

The policy should 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) per occurrence. A Five Hundred Thousand Dollar (\$500,000) 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 (\$500,000) dollars 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 (\$1,000,000) dollars combined single limit per occurrence.
  - b. Coverage must include all owned, hired and not-owned automobiles.
  - c. The City shall be named as an additional insured on the policy and provided with a waiver of subrogation.
  
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 set forth by the insurance company 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 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.

- 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 INSPECTOR 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 ARLINGTON, 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 ARLINGTON, TEXAS, 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 ARLINGTON, 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 ARLINGTON, 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 ARLINGTON OCCURRING ON THE DRILL 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 ARLINGTON OCCURRING ON THE DRILL 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 ARLINGTON, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF ARLINGTON, 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.**

**E. Notice**

The individual designated to receive notice may be served in person or by registered or certified mail. Every Operator shall, within five business (5) days, notify the Inspector in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

**F. Electronic Submittal of Final Plans and Other Documents**

Final plans or other documents required to be submitted under this Chapter and that will be archived must be submitted in an electronic format specified by the P&DS Director as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The P&DS Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program. (Amend Ord 19-008, 3/19/19)

**ARTICLE VII****ON SITE AND TECHNICAL REGULATIONS****Section 7.01 Technical Regulations****A. On Site Requirements**

1. **Abandoned Wells.** All wells shall be plugged and abandoned in accordance with the rules of the RRC and Section 7.03.
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 operations as required by and in conformance with the requirements of the RRC and the recommendations of the API.
3. **Compliance with Fire Code.** All operations, well facilities and equipment used at or located on the site shall comply with the provisions of the Fire Code and NFPA standards where applicable.
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 private or public 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. Watering, wetting or other methods or materials must be used to control dust adjacent to residential property.

After April 1, 2019, all Operators of pad sites located within six hundred (600) feet of a protected use must submit a dust mitigation plan to the City, at the time of SUP application or gas well permit application, whichever comes first. The dust mitigation plan shall include a private road and pad site watering schedule as well as alternatives, such as, but not limited to, the application of calcium chloride or asphalt. Failure of the Operator or its agents to comply with the approved schedule may result in a violation of this Chapter and the subsequent requirement and implementation of more permanent solutions, such as chip sealing and the complete replacement of worn caliche. (Amend Ord 19-008, 3/19/19)

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. All electrical installations and equipment shall conform to the City ordinances and the appropriate electrical codes.
9. **Emergency Response Plan.** Prior to the commencement of any gas or other hydrocarbons production activities, Operator shall submit to the Fire Chief and Inspector 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 RRC, TCEQ, Department of Transportation, and/or the EPA and City Fire Code. A copy of the Emergency Response Plan shall be kept on site.
10. **Equipment painted.** 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 Inspector 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 color shall comply with any State requirements, be of a neutral color, and be compatible with surrounding uses.

11. **Explosives.** The use of explosive charges on any drill site shall require an explosives permit from the Fire Marshal, as required by the Fire Code of the City. Use of explosive charges within the City limits shall require approval by the Fire Marshal.
12. **Fire notice.** In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the Operator shall immediately report such condition to the Fire Department.
13. **Fire prevention.** Firefighting apparatus, suppression equipment and supplies as approved by the Fire Department 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 drill site at all times during drilling and production operations. Fire extinguishers must be located on the site at all times when personnel are present. 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 well heads shall contain an emergency shut off valve to the well production sale line.

14. **Fracture Stimulation Earthen Pit.** Frac ponds shall be designed in accordance with the following table:

<b>Tier</b>	<b>Pond Design</b>	<b>Fencing/Landscaping</b>
1	Water feature on the site	<ul style="list-style-type: none"> <li>• 6-foot tall black vinyl-coated chain link fence around pond</li> <li>• Informal planting of shrubs around the pond</li> <li>• One street tree for every 30 feet of frontage along ROW</li> </ul>
2	Water feature on the site	<ul style="list-style-type: none"> <li>• 6-foot tall black vinyl-coated chain link fence around pond</li> <li>• One street tree for every 30 feet of frontage along ROW</li> </ul>

Tier 1 requirements apply when frac ponds are located within 600 feet of a protected use, adjacent to ROW, or visible from a public street.

Tier 2 requirements apply when frac ponds are not adjacent to ROW and not within 600 feet of a protected use.

Street trees shall be planted and selected in accordance with the parkway planting standards contained in the Unified Development Code. (Amend Ord 19-008, 3/19/19)

Frac ponds must have a lining with a permeability of no more than  $1 \times 10^{-4}$  cm/sc. Soils used for pond lining must be free from foreign material such as paper, brush, trees and large rocks.

If an Operator who maintains a tank or pit does not take protective measures necessary to prevent harm to birds, the operator may incur liability under federal and state wildlife protection laws. Federal statutes, such as the Migratory Bird Treaty Act, provide substantial penalties for the death of certain species of birds due to contact with oil in a tank or pit. These penalties may include imprisonment. State statutes also protect certain species of birds. An Operator must screen, net, cover, or otherwise render harmless to birds all open-top storage tanks that are eight feet or greater in diameter and contain a continuous or frequent surface film or accumulation of oil. However, temporary, portable storage tanks that are used to hold fluids during drilling operations, workovers, or well tests are exempt.

15. **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 Fire Code. 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 law, 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 drill site and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners. Written notification must be provided to the Inspector at least 72 hours before any flaring activity is to begin.

In the event of the loss of gas or other hazardous material from the well site, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this Ordinance and shall notify the Fire Department and P&DS Director as soon as practicable. If the Fire Inspector believes that it is necessary to take emergency action due to a potential or actual situation that danger to persons and property exists or will exist because of such loss or potential 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 Inspector 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 Inspector deems necessary to regain control of such well. Operator shall reimburse the City for any expenses incurred and the City may pursue all available recourses to collect its expenses from Operator including use of security and insurance provided by Operator under this chapter. The standard of care applicable to the Fire Inspector for emergency action is set out in the Emergency Chapter of the City Code. (Amend Ord 19-008, 3/19/19)

16. **Gas lift compressor.** Any onsite compressor used to ‘lift gas’ shall be designed to comply with the noise requirements of this Ordinance.

Electric gas lift compressors are preferred. However, if other gas lift compressors are utilized and located in drilling zones located within six hundred (600) feet of a protected use, they must be buffered from residential protected uses by an acoustical structure of metal, masonry or other approved material. A four-wall encasement is preferred. Other sound buffering methods may be approved by the Director of Planning and Development Services, if the buffering is oriented in a way that redirects sound from the surrounding residential protected uses. (Amend Ord 19-008, 3/19/19)

17. **Gas processing onsite.** Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises unless approved as part of the Gas Well Permit.
18. **Grass, weeds, trash.** The property on which a drill 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.
19. **Hazardous Plan.** A Hazardous Materials Management Plan shall be on file with the Fire Department and the Inspector.
20. **Lights.** No person shall permit any lights located on any drill site to be directed in such a manner so that the lights shine directly on public roads, adjacent property or property in the general vicinity of the drill site. To the extent practicable, and taking into account safety considerations, site

lighting shall be directed downward and internally to avoid glare on public roads and adjacent dwellings and buildings within three hundred (300) feet.

The location of existing and proposed lights should be shown on the gas well permit site plan.

21. **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.
22. **Private roads and drill sites.** Prior to the commencement of any drilling operations, all private roads used for access to the drill site itself shall be at least twenty-four (24) feet wide and have an overhead clearance of fourteen (14) feet. At a minimum, the road shall be surfaced with bituminous surface treatment (e.g., chip seal), but asphalt and concrete paving are acceptable. Roads shall not be surfaced with gravel or caliche. All private roads shall have a concrete drive approach constructed in accordance with City design standards. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the Inspector 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 operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind. Watering, wetting, or other methods or materials must be used to control dust adjacent to residential property.
23. **Rigs.** Electric rigs must be utilized for drilling a well located within six hundred (600) feet of a protected use, unless approved in advance by the Director of Planning and Development Services after submission in writing of a compelling reason to use an alternative rig. (Amend Ord 19-008, 3/19/19)
24. **Salt Water Wells.** No salt water disposal wells shall be located within the City of Arlington.

25. **Security.** At all times, the operation site or compressor station shall have a minimum of one security camera mounted inside the enclosure.

Signs shall be posted on the fence or wall of the site to indicate that activity on the site may be recorded by video surveillance. Camera systems shall be maintained in proper operating condition and shall be designed and located to meet the following requirements:

- a. capture clear video images (day and night) of all traffic entering and exiting the gate(s);
- b. capture clear video images (day and night) of all production equipment located on the site; and
- c. show the date and time of all activity on the footage.

Operator shall maintain video data for a period of five (5) business days. At the request of City law enforcement officials, the operator shall make available any recorded views of the enclosed area.

26. **Signs.**

- a. A sign shall be displayed immediately and prominently at the gate on the fencing erected pursuant to Section 7.01.C.2 of this Ordinance. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the RRC, shall have a surface area of not less than two (2) square feet or 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.

<p style="text-align: center;"><b>Well Name/Number</b> Name of Operator Operator 24-hour emergency number EMERGENCY - DIAL 911</p>
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- b. Permanent weatherproof signs reading DANGER NO SMOKING OR OPEN FLAME ALLOWED, PELIGRO NO FUMAR O INICIAR LLAMA EN ESTA AREA shall be posted immediately upon completion of the drill site fencing at the entrance of each drill site and tank battery or in any other location approved or designated by the Fire Chief 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. A label must be located on each tank indicating exact chemicals that may be contained in the tank. Text shall be minimum six (6) inches in height, contrasting with the background color. Each sign shall include the emergency notification numbers of the Fire Department and the Operator, well and lease designations required by the RRC.
- c. No other signs shall be permitted on the site except as required by the RRC.



27. **Storage of equipment.** On-site storage of equipment is prohibited on the drill site. 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, ROW or in any driveway, alley or upon any drill 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 Department shall be the entity that determines whether equipment on the site shall constitute a fire hazard.

28. **Storage Tanks, Well Facilities and Equipment.**

- a. All tanks, temporary or permanent, shall conform to API specifications unless other specifications are approved by the Fire

- Chief. 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 (1½) 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.
- b. Secondary containment shall be required for all equipment. Secondary containment shall be capable of containing a release of one hundred fifty (150) percent of the largest storage container within the containment and have adequate freeboard to contain an average annual rain event.
  - c. All tanks, well facilities and equipment shall be set back pursuant to the standards of the RRC and the NFPA, and in all cases shall be at least twenty-five (25) feet from any public ROW or property line and at least two hundred (200) feet from a protected use.
  - d. The sidewalk height of all tanks shall be no higher than eight (8) feet above the terrain surrounding the tanks.
  - 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. The appropriate NFPA diamond hazard placard shall be placed on each tank and piece of equipment, as applicable.
  - g. All storage tanks, well facilities and equipment shall be equipped with a lightning arrestor system in accordance with the Fire Code and NFPA standards.
  - h. No meters, storage tanks, separation facilities, or other aboveground facilities, other than the well head and flow lines, shall be placed in a floodway or the 100-year floodplain.
29. **Valves.** Each well must have a shutoff valve to terminate the well's production.
30. **Vapor Recovery Units.** Any drill site that produces more than one (1) barrel of condensate per day shall install a vapor recovery unit on the site.



Operator shall provide monthly reports to the Inspector documenting any found condensate.

31. **Waste Disposal.** Unless otherwise directed by the RRC, all tanks used for storage shall conform to the following:
- a. Operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet API standards. All tanks must have a vent line, flame arrester and pressure relief valve. No tank battery shall be within one hundred (100) feet of any dwelling or other combustible structure.
  - b. 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 above-ground tanks (closed loop mud system). All disposals must be in accordance with the rules of the RRC and any other appropriate local, state or federal agency.
  - c. Unless otherwise directed by the RRC, 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 Ordinance and any other applicable ordinance of the City.

32. **Wellhead Status after Fracing.**
- a. All wellbores, mouse holes, rat holes, cellars, and conduit casings shall be:
    - (1) covered at all times when not in use by appropriate means that adequately covers the entire bore hole;
    - (2) completed through the production casing flange with a metal plate or blind flange bolted across the head; and
    - (3) protected from vandalism, wind driven debris, vehicle damage or other threat that would have the potential to disrupt operations or release any amount of natural gas.

- b. The cellar shall be filled or closed.
- c. The Bradenhead shall be piped to the surface and have an observable and adequate pressure gauge with operable test valve.

**B. Well setbacks.**

**1. External Setbacks.**

- a. It shall be unlawful to drill any well outside a drilling zone approved by the City Council that, at the surface of the ground, is located within six hundred (600) feet from a park or within six hundred (600) feet from a protected use for which a building permit has been issued on or before the date of the application for a drilling permit. The distance shall be calculated from the boundary of the drilling zone, in a straight line, without regard to intervening structures or objects, to: (i) the boundary of the public park; (ii) the primary structure of a day care or the boundary of the area designated by the day care for use as a playground, whichever is closest; and (iii) the primary structure of all other protected uses.
  - (1) This setback distance may be reduced by the City Council to not less than three hundred (300) feet upon the affirmative vote of not less than a super-majority of seven (7) members of the City Council. Petitions in support or opposition to the setback distance reduction must be submitted to the City at least one (1) business day prior to the date of the City Council public hearing. In the event the public hearing is continued, additional petitions may be submitted until one (1) business day prior to the date at which the hearing is continued.
  - (2) For protection of the public health, safety and welfare, the City Council may impose additional requirements for a reduction of such distance, and take into account the presence of natural or man-made barriers. (Amend Ord 21-012, 4/13/21)
- b. It shall be unlawful to drill any well that, at the surface of the ground, is located within six hundred (600) feet from Lake Arlington reservoir area, as defined by the Lake Arlington chapter of the City Code. The distance shall be calculated from the boundary of the drilling zone, in a straight line, without regard to intervening structures or objects to the boundary of the reservoir area.

2. **Internal Setbacks.**

- a. Within twenty-five (25) feet from any outer boundary line of the drill site; or
- b. Within twenty-five (25) feet from any storage tank, or source of ignition; or
- c. Within seventy-five (75) feet of any public street, road, highway or future street, right-of-way or property line; or
- d. Within one hundred (100) feet of any building accessory to, but not necessary to the operation of the well; or
- e. Within two hundred (200) feet to any fresh water well.

3. **Reverse Setbacks**

- a. Pursuant to the Fire Prevention Chapter, buildings with an occupancy in Group A, E or I shall not be established within 300 feet of an existing drilling zone or gas well.
- b. Pursuant to the Unified Development Code, a residential structure shall not be established within 300 feet of an existing drilling zone or gas well.
- c. A day care, as defined in Article 2, and otherwise an allowed use under Article 3 of the Unified Development Code, and its outside playground area, shall not be established within 300 feet of an existing drilling zone or gas well. (Amend Ord 21-012, 4/13/21)

C. **Landscaping and Fencing**

- 1. **Landscaping and Perimeter Fencing.** Within thirty (30) days after spudding the first well on the site, the following landscaping and perimeter fencing improvements shall be installed:

Tier	Landscaping	Perimeter Fencing
1	<ul style="list-style-type: none"> <li>• 40-foot transitional buffer around drill site</li> <li>• 10-foot wide streetscape setback with street trees</li> </ul>	<ul style="list-style-type: none"> <li>• 8-foot tall masonry wall with 75% opacity around the perimeter of the drill site</li> <li>• Installation of gate</li> </ul>
2	<ul style="list-style-type: none"> <li>• 20-foot transitional buffer around drill site</li> <li>• 10-foot wide streetscape setback with street trees</li> </ul>	<ul style="list-style-type: none"> <li>• 8-foot tall ornamental iron fence with masonry columns around the perimeter of the drill site</li> <li>• Installation of gate</li> </ul>

Tier 1 requirements apply in all locations except for industrial zoning districts.

Tier 2 requirements apply in industrial zoning districts.

All landscaping and fencing must be maintained in accordance to the requirements contained in the Unified Development Code. (Amend Ord 19-008, 3/19/19)

2. **Administrative Adjustment.** The P&DS Director or designee may approve administrative adjustments to the landscaping and perimeter fencing design if it is found that the adjustments: (Amend Ord 19-008, 3/19/19)
  - a. are consistent with the state purpose of this Chapter; and
  - b. meet all other applicable building and safety codes; and
  - c. will not adversely affect the proposed development of use of adjacent property or neighborhoods; and
  - d. are necessary to accommodate an alternative or innovative design that achieves to the same or better degree the objective of the landscaping and perimeter fencing standard to be modified.
  
3. **Street Trees.** Street trees are required to be planted along the ROW for all Tier 1 and Tier 2 drill sites in accordance with the parkway planting requirements contained in the Unified Development Code. The street trees should be planted in the area the same width of the drill site along the nearest ROW. (Amend Ord 19-008, 3/19/19)

4. Masonry wall specifications shall be as follows:
  - a. The wall shall be of a design compatible with the facilities, buildings and structures on and adjacent to the site;
  - b. No trespassing signs are required on the fence on all four sides of the drill site.
5. **Gate specifications.** All perimeter fences shall be equipped with at least one (1) gate. The gate shall meet the following specifications:
  - a. 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.
  - b. 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
  - c. Operator must provide the Inspector and Fire Department with a Knox Padlock or Knox Box entry system or equivalent on the gate to access the drill site in case of an emergency.

**D. Vehicle Routes for Gas Well Permit**

1. Vehicles in excess of three (3) tons associated with drilling and/or production shall comply with the City Council approved transportation route.
2. The City Council may restrict the hours of operation of vehicles associated with drilling and/or production when the proposed vehicle route passes through a designated school zone, heavily used roadway or intersection, near protected uses, or along local residential streets. The P&DS Department shall review the vehicle routes to determine if a proposed route includes a designated school zone. (Amend Ord 19-008, 3/19/19)
3. In the event of construction detours or roadway deterioration on an approved transportation route or TXDOT permitting, the Inspector may amend the approved route.

4. After April 1, 2019, all operators shall submit an off-site truck staging plan, along with their gas well permit application, to coordinate the order of vehicles and machinery arriving and remaining at the well site. The use of residential streets for off-site truck staging is prohibited. (Amend Ord 19-008, 3/19/19)

**E. Work Hours for Gas Well Permit**

Drilling and flowback operations may take place on a 24-hour basis any day of the year except Thanksgiving or Christmas Day, which requires approval by the P&DS Director. Site preparation, well servicing, truck deliveries of equipment and materials, fracing, and other related work conducted on the drill site shall be limited to between the hours of 7 a.m. to 6 p.m., Central Standard Time and 7 a.m. to 8 p.m. Central Daylight Saving Time, Monday through Saturday. Other than mobilization, demobilization, and advancing the bore hole, no other activities shall be allowed on the drill site on Thanksgiving or Christmas Day. The restriction on work hours shall not apply 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. (Amend Ord 19-008, 3/19/19)

**F. Noise Restrictions for Gas Well Permit**

1. Prior to the issuance of a gas well permit, the Operator shall report to the Inspector ambient noise readings taken over a 72-hour period, including at least one 24-hour reading during a Saturday or Sunday. During the 72-hour period, readings shall be taken from the hours of 7:00 a.m. to 7:00 p.m. to establish the pre-drilling ambient noise level for daytime operations, and readings shall be taken from 7:00 p.m. to 7:00 a.m. to establish the pre-drilling ambient noise level for any nighttime operations.
2. The ambient reading shall be taken 100 feet from the nearest protected use or 600 feet from the proposed drilling zone in the direction towards the nearest protected use, whichever distance is shorter.
3. The operator must provide the Inspector a noise mitigation plan. The plan should detail the ambient noise level and anticipated mitigation techniques.
4. The sound level meter used in conducting noise evaluations shall meet the American National Standards Institute's standard for sound meters.

5. The exterior noise level generated by operations shall not exceed the pre-drilling ambient noise level by more than the levels shown in the following table:

Operation	Daytime Hours	Nighttime Hours
Drilling or re-drilling	Four (4) decibels	Two (2) decibels
Fracing	Seven (7) decibels	N/A
Flowback	Five (5) decibels	Three (3) decibels
Production	Zero (0) decibels	Zero (0) decibels

(Amend Ord 19-008, 3/19/19)

6. An Operator shall not drill or re-drill a well or operate any equipment in such a manner so as to create pure tones where one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of two contiguous one-third octave bands by five dB for center frequencies of 500 Hertz and above, and by eight dB for center frequencies between 160 and 400 Hertz, and by 15 dB for center frequencies less than or equal to 125 Hertz.
7. An Operator shall not drill or re-drill a well or operate any equipment in such a manner to create low-frequency outdoor noise levels that exceed the following decibel levels:

16 Hertz octave band:	65 dB
32 Hertz octave band:	65 dB
64 Hertz octave band:	65 dB

8. The exterior noise level generated by the drilling, re-drilling, fracing, re-working, or other operations of all gas wells located within six hundred (600) feet of a protected use shall be continuously monitored to ensure compliance. The monitoring shall be real time and continually accessible to the Inspector via a streaming medium, e.g., internet, web based data, Bluetooth sharing. The cost of such monitoring shall be borne by the Operator. Every 24-hour period should be summarized in a report and provided to the Inspector in a format that is acceptable to the Inspector. Failure to provide this information within two business days is considered a violation of this subsection.
9. Acoustical blankets, sound walls, mufflers, or other alternative methods may be used to ensure compliance. All soundproofing shall comply with

accepted industry standards and is subject to approval by the Inspector. All soundproofing measures must be removed from the site no later than sixty (60) days after drilling operations have ceased. The Inspector may grant an extension of time if additional drilling activities will commence within a reasonable time period.

10. If a complaint is received after gas well drilling operations begin by either the Operator or the City, the Operator shall immediately upon receipt of the complaint, notify the Inspector and continuously monitor the exterior noise level generated by the gas well drilling or production for a twenty-four (24) hour period and take the action necessary to abate the violation, if a violation exists.
11. After April 1, 2019, on all gas well sites located within six hundred (600) feet of a protected use, in the event the gas well site has two or more confirmed noise violations of this Chapter, the Operator of said gas well site shall thereafter be required to install sound walls prior to conducting any re-working operations that require the use of a well-servicing rig on site. This additional noise mitigation requirement shall continue for the operational life of the gas well drill site. (Amend Ord 19-008, 3/19/19)

#### **G. Closed Loop Mud Systems**

A Closed Loop Mud System shall be used in conjunction with all drilling and reworking operations for all Gas Well Permits, unless specifically waived by the City Council.

#### **H. Natural Gas Compressor Stations**

1. Approved zoning is required before a permit for a natural gas compressor station can be obtained from the City.
2. All natural gas compressor stations shall be constructed, operated and maintained in accordance with the Fire Code, NFPA standards, and all other building and development ordinances of the City.
3. All compressor station equipment, at the issuance of the initial certificate of occupancy, shall be set back a minimum of six hundred (600) feet from a park or from a protected use, or a minimum of three hundred (300) feet from all other uses, for which a building permit has been issued on or before the date of the application for a drilling permit. The distance shall be calculated from the primary structure of the compressor station equipment to the primary structure of the protected use or other use or



park boundary. This setback may be reduced by the City Council if written consent of seventy (70) percent of the surface property owners is obtained. In the event such approval or consent is not obtained, and upon providing evidence of an attempt to obtain consent of seventy (70) percent of the surface property owners, then the distance may be reduced upon an affirmative vote of a super-majority of seven (7) members of the City Council.

4. The boundary of the compressor station site shall be enclosed by an eight (8) foot tall masonry screening wall on all sides.
5. All compressor station equipment at the proposed site exceeding 10 feet in height shall be enclosed within a building. All buildings shall have exterior walls constructed of masonry, as defined in Article II of the Unified Development Code. (Amend Ord 19-008, 3/19/19)
6. The operation of the equipment shall not create any noise that causes the exterior noise level to exceed the pre-development ambient noise levels, as measured at the six hundred (600) foot setback. The Operator shall be responsible for establishing and reporting to the City the pre-development ambient noise level prior to the issuance of the compressor station permit. The ambient noise level shall be established in accordance with the guidelines defined in Section 7.01.F.
7. The compressor station site shall be landscaped as follows:
  - a. Landscaping and irrigation shall be provided as identified in the approved zoning and/or specific use permit.
  - b. It shall be the responsibility of the Operator to comply with the City's landscaping ordinance including tree preservation/mitigation and maintenance.
  - c. Landscaping must blend with the environment and existing surrounding area.
  - d. Landscaping must be installed within thirty (30) days from the completion of the permitted compressor station.
8. The Inspector shall inspect the compressor station site on an annual basis to determine compliance with the provisions of this Ordinance.

**I. Saltwater Disposal Lines**

1. Engineered construction drawings for all saltwater disposal lines, including but not limited to gas drilling flowback water, shall be submitted to the City of Arlington Water Utilities department for review. The drawings shall be sealed by a professional engineer licensed to practice in the State. The drawings shall include the surveyed alignment for the saltwater disposal lines and the limits of any easements. A maintenance plan and inspection schedule will be provided to the City.
2. Salt water disposal lines shall be prohibited within one hundred (100) feet of the flowage easement lands around Lake Arlington. Flowage easement lands are defined as those lands below the elevation contour of 560.0 feet above mean sea level. Salt water disposal lines shall also be prohibited under Lake Arlington.
3. City water utility standards must be used in the design. The plans must be approved by the City prior to construction and will be subject to inspection by the City. All applicable plan review and inspection fees shall be paid to the City.

**J. Installation of pipelines on, under or across public property**

1. The Operator shall apply to the City for a franchise, Pipeline License Agreement, or other Arlington 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 Ordinance. Operator shall:
  - a. 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.
  - b. Furnish to the P&DS Director a plat showing the location of such pipelines. (Amend Ord 19-008, 3/19/19)
  - c. Construct such lines out of pipe in accordance with relevant federal, state and local regulations and laws including venting if under a street;

- d. Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed before pipeline construction.
  - e. Comply with all City ordinances.
2. 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 shown by the current comprehensive plan of the City, 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 Inspector. Any consent from the Inspector 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.
  3. All sites with aboveground equipment such as pipeline facilities, valve stations or pig launchers shall be landscaped and screened in accordance with the requirements of this Chapter.

#### K. **Required Notifications**

1. **Surface Casing.** The Operator's agent shall notify the Inspector in writing at least seventy-two hours prior to running and cementing surface casing. The procedures to be followed in this operation shall be as provided in Cementing, Rule No. 13 of the RRC.
2. **Completion.** The Operator's agent shall notify Inspector in writing at least seventy-two hours prior to starting completion procedures such as perforating and fracing. The well must be equipped with a Blowout Preventer before this operation is commenced. In addition, if a bridge plug is set over a producing formation prior to additional completion, it must be pressure tested to a sufficient pressure to ensure that it is not leaking.
3. **Pipeline Connections.** The Operator's agent shall notify the Inspector in writing at least seventy-two hours after the first sale. The tank battery shall be equipped with a lightning arrestor.
4. **Final Acceptance.** Within thirty (30) days of the start of production of a well, or of the operation of a pipeline, the Inspector will inspect and accept or reject the drill site or pipeline installation site clean-up and permanent provisions for security and screening of the drill site. The Inspector will provide the Operator written notification of acceptance within ten (10)

working days. If the clean-up or proposed provisions for security and screening are rejected by the City, the Operator will be notified of the rejection and the reasons for the rejection in writing within ten (10) working days. The Operator must take action to nullify and correct the reasons for rejection within thirty (30) calendar days from the notification.

**L. Operations and Equipment; Practices, Standards, and Appearance**

1. All drilling and pipeline operations shall be conducted in accordance with the practices of a reasonable and prudent operation in the State. All material, equipment, and testing used shall be of a quality and type consistent with such practice.
2. Each Operator shall not contaminate the ground water by the drilling, pipeline installation or production activities. All rules of the Federal Government, the State, and the City regarding protecting natural resources must be strictly followed.
3. Drilling and pipeline production operations shall be conducted in such a manner as to minimize noise, vibration, dust, odors, or other nuisances. Internal combustion engines used on the well or pipeline site must be fitted with exhaust mufflers. For production purposes, only electrically or natural gas powered compressors or motors may be used.
4. No refining of any kind, except for gas dehydrating and physical phase separation, shall take place at the drill site.
5. The drill site shall not be allowed to become dilapidated, unsightly, or unsafe.
6. The well or pipeline site shall not be used to store pipe, drilling equipment, or materials after the drilling or pipeline installation operation has ceased.
7. No refining plant or cooling plant shall be allowed in the City at any time.
8. Flaring or burning of gas or petroleum of any kind after the well is in production is prohibited. Temporary flaring or burning to accommodate public safety may be performed but only when approved by the Fire Inspector.

**Section 7.02 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, complete restoration activities and repair all property damage caused by such operations to be completed within thirty (30) days, in accordance with the Site Remediation Plan.
- B. **Clean-up 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 City Fire Chief and the Inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. If the Operator fails to begin site clean-up within twenty-four (24) hours, the Inspector and/or Fire Inspector may contract for or otherwise employ any clean-up experts by contract or otherwise at the sole expense of Operator. Operator expressly consents by applying for a permit to allow a drawdown of any bond or letter of credit to cover any expenses related to clean-up of the site or emergency response and mitigation efforts performed by any City public safety agency or its contractors. In the event that the bond or letter of credit is exhausted or exhausted by 25% or more Operator agrees to replenish the amount immediately. City shall have the right to contact the RRC 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 drill 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 and on the drill site.
- 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 Inspector 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, and comply with any state requirements. Neutral colors shall include sand, gray and unobtrusive shades of brown, or other neutral colors approved by the Inspector. Fire protection system components and other emergency or shut-in operation devices shall be painted red and marked according to Fire Code and NFPA standards to the extent not in conflict with applicable federal or state law or regulations.
- 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 Ordinance and shall notify the Inspector as soon as practicable.

The Fire Inspector shall certify in writing, briefly describing the same, to the official designated by the Fire Chief. If in the opinion of the Fire Inspector, 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 City 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 Inspector deems necessary to regain control of such well. Operator shall reimburse the City for any expenses incurred and the City may pursue all available recourses to collect its expenses from Operator including use of security and insurance provided by Operator under Article VI.

### **Section 7.03 Plugged and Abandoned Wells**

- A. **Surface requirements for plugged and abandoned well.** Whenever plugging and abandonment occurs pursuant to the requirements of the RRC, the Operator shall be responsible for the restoration of the drill site to its original condition as nearly as practicable, in conformity with the regulations of this Ordinance.
- B. **Approval by Inspector.** Abandonment shall be approved by the Inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the Inspector:
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 RRC;
  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. The masonry wall may remain on the site if the property owner requests that the wall stay after the well is plugged or abandoned or the Inspector determines the wall is consistent with the development and serves as an amenity feature. The Inspector may require the wall to be removed.

7. During abandonment, Operator shall comply with all applicable sections in this Ordinance.
- C. **Abandoned well requirement.** The Operator shall furnish the following at the discretion of the Inspector:
1. A copy of the W-3A 'Notice of Intention to Plug & Abandon' and W-3 'Plugging Record' forms on the same date these forms are submitted to the Commission; and
  2. A prior forty-eight (48) hour 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.
  3. All wells shall be abandoned in accordance with the rules of the RRC; however, all well casings and cellars shall be cut and removed to a depth of at least three (3) feet below the surface. A permanent abandonment marker pipe, with the well identity and location permanently inscribed, shall be welded to the casing and shall be at least four (4) inches in diameter with a length of four (4) feet visible above the ground level.
- D. **Abandonment requirements prior to new construction.** All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the RRC prior to the issuance of any building permit for development of the property. No structure shall be built over a plugged well. (Amend Ord 11-068, 12/6/11)

**ARTICLE VIII****TECHNICAL ADVISOR****Section 8.01 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 Ordinance, 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 Ordinance. 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 Manager designee charged with administration of this chapter.

(Amend Ord 11-068, 12/6/11)



**ARTICLE IX****APPEALS****Section 9.01 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 as provided by this Ordinance. Any person or entity whose application is denied by the Inspector (other than for distance requirements set out in this Ordinance) 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 Inspector, file an appeal to the City Council in accordance with the following procedure:
1. An appeal shall be in writing and shall be filed with the P&DS Director. The grounds for appeal must be set forth specifically, and the error described, by the appellant. (Amend Ord 19-008, 3/19/19)
  2. Within forty-five (45) days of receipt of the records, the P&DS Director 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. (Amend Ord 19-008, 3/19/19)
- B. To ensure that all state or federal law preemption determinations are made by the City only after the City is in receipt of all information necessary to allow the City to determine whether state or federal law preempts certain areas of the City's regulatory authority and provide a method of administrative review of preemption determinations, the following administrative procedure for consideration of any claim of state or federal preemption shall be followed prior to any lawsuit being filed in a court of competent jurisdiction against the city with a preemption claim.
1. Any person that believes state or federal law preempts certain areas of City regulatory authority shall submit to the Building Official a letter explaining the factual and legal bases upon which the person relies to support the contention that City regulation is preempted and the person is therefore not subject to a particular City regulation, order, ordinance, rule, expiration date, or other properly adopted requirement. Such written submission shall include, at a minimum, the following:

## GAS DRILLING AND PRODUCTION

### 9.01

- a. The name, mailing address, phone number and fax number of the person (or the person's duly authorized agent);
  - b. Identification of the property for which the person claims preemption;
  - c. Identification of the intended use and facilities;
  - d. The identification of any permits requested pursuant to this Chapter;
  - e. A chronology of the history of the project or permit; and
  - f. Identification of particular City regulations the person contends are preempted or otherwise do not apply. Global references to a particular ordinance, statute, or set of criteria may be deemed insufficient and the City may consider the request for a preemption determination to be incomplete and not subject to a staff determination.
2. The Building Official shall promptly forward the person's preemption determination request, along with any supporting information or documentation provided along with the request, to the City Manager and City Attorney for their review. The City Manager, after consultation with the City Attorney, and with forty-five (45) days of receiving the request, shall issue a final administrative determination of whether the City's regulation has been preempted under state or federal law, and shall identify, with particularity, areas where the City's regulatory authority has been preempted under state or federal law or shall begin an appropriate action before the Texas Railroad Commission or other state regulatory authority as applicable. Prior to rendering the final determination or such state agency action, the City Manager may request a pre-determination conference with the person to discuss the person's preemption claim and to ensure that the nature of the claim is full and completely understood by the City Manager.
  3. Any person aggrieved by or believes that the City Manager's preemption determination in the final administrative determination is in error shall have the right to appeal such determination to the City Council, which shall have jurisdiction to hear and decide the appeal. Within forty-five (45) days of receipt of the appeal, the City Manager shall 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. The City Manager's final determination, if not timely appealed to the City Council within thirty (30) days shall be final and binding upon the City and the person for the duration of the project.

4. Any person aggrieved by the actions of the City Council may present to a court of record a petition, duly verified, setting forth that such decision is illegal in whole or in part, and specifying the grounds of the illegality. Unless such petition is filed with said court within thirty (30) days of the decision of the City Council, the decision shall become final and binding upon the City and the person for the duration of the project. Notwithstanding the binding nature of the City Manager's final determination and the ruling of City Council, the City and the person may, at any time, enter into an agreement that, to the extent authorized by law, modifies the final determination and the applicable regulations to be applied to the project.
- C. Appeal fees shall be required for every appeal in the amount as approved by resolution of the Arlington City Council. (Amend Ord 11-068, 12/6/11)

**ARTICLE X**

**PENALTY**

**Section 10.01 Penalty**

- A. 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; or
  2. Fail to comply with any condition set forth in a Gas Well Permit issued under this Chapter.
- B. A person who violates any provision of this Chapter by performing an act prohibited or by failing to perform an act required is guilty of a misdemeanor; each day the violation continues shall be a separate offense.
1. If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required. Such offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents (\$500.00). Although not required, if a culpable mental state is in fact alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).
  2. If the definition of an offense under this Chapter prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).

(Amend Ord 11-068, 12/6/11)

ORDINANCE NO. 03-120

AN ORDINANCE ADOPTING THE “**GAS DRILLING AND PRODUCTION**” CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS 1987; PROVIDING FOR A FINE OF UP TO \$2,000 FOR EACH VIOLATION OF THIS ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY, GOVERNMENTAL IMMUNITY, INJUNCTIONS, PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

WHEREAS, there has been increased interest in gas drilling and production within the City of Arlington; and

WHEREAS, the City of Arlington currently requires “IM” zoning with a Specific Use Permit for gas drilling and production, but does not have comprehensive regulations concerning drilling and production of gas within the city limits; and

WHEREAS, the City Council finds that the drilling and production of gas within the city limits on private property without comprehensive regulations could affect the health, safety and welfare of its citizens; and

WHEREAS, the City Council deems it necessary to enact comprehensive regulations for the drilling and production of gas on private property within the city limits;  
NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas, 1987, be and the same is hereby adopted so that hereafter said Chapter shall be and read as follows:

**ARTICLE I**

**GENERAL PROVISIONS**

**Section 1.01 Short Title**

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

**Section 1.02 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 Ordinance 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 Ordinance might be inconsistent or in conflict with the specific provisions of any other Ordinance of the City of Arlington, this Ordinance shall control with regard to the conflict.

## ARTICLE II

### DEFINITIONS

#### Section 2.01 Definitions

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this Ordinance shall have the meanings customarily attributable thereto by prudent and reasonable gas industry Operators. The following words, terms and phrases, when used in this Ordinance, 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 Ordinance.

**“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”** is 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 Arlington.

**“City Code”** means the Code of the City.

**“City Attorney”** means the City Attorney of the City.

**“Completion of Drilling, Re-drilling and Re-working”** means the date the work is completed for the drilling, re-drilling or re-working 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 re-working 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 re-working 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.

**“Inspector”** means the Gas Inspector or Building Official designee.

**“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 Ordinance, 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 Ordinance, 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, Playground, or Golf Course”** means 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 water courses.

**“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.

**“Re-working”** 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 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.



## **ARTICLE III**

### **INSPECTOR**

#### **Section 3.01. Inspector**

- A. The City Manager shall designate an official who shall enforce the provisions of this Ordinance. The official may retain a Gas Inspector or Building Official designee, who shall have 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 Inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this Ordinance and its particular provisions.
- B. The Inspector shall have the authority to enter and inspect any premises covered by the provisions of this Ordinance to determine compliance with the provisions of this Ordinance and all applicable laws, rules, regulations, standards or directives of the State. Failure of any person to permit access to the Inspector shall constitute a violation of this Ordinance. The Inspector 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 Ordinance and all regulations of the Railroad Commission.
- C. The Inspector 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.

## **ARTICLE IV**

### **AGENT**

#### **Section 4.01 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 Ordinance 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.

## **ARTICLE V**

### **GAS WELL PERMITS**

#### **Section 5.01 Gas Well Permit Required**

- A. A Specific Use Permit is required before a Gas Well Permit can be obtained from the City.

- B. A person wanting to engage in and operate in gas production activities on private property shall apply for and obtain a Gas Well Permit under this Ordinance. 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, re-working, 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 Ordinance. Such activities include, but are not limited to re-working, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing. A permit shall not be required for seismic surveys.
- C. Operator must apply for and obtain a Gas Well Permit for the drilling, re-drilling, deepening, re-entering, activating or converting of each well on private property. The Operator may apply for and obtain a “blanket” Gas Well Permit for more than one well if multiple wells are located on the same tract of land.
- D. Gas Well Permit shall not constitute authority for the re-entering and drilling of an abandoned well. An Operator shall obtain a new Gas Well Permit in accordance with the provisions of this Ordinance if the Operator is re-entering and drilling an abandoned well.
- E. When a Gas Well Permit has been issued to the Operator for the drilling, re-drilling, deepening, re-entering, activating or converting of a well, such Gas Well Permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, repair, re-working, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well, provided, however, that 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. Any person who intends to re-work 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 Inspector 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 Inspector, 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 Inspector determines that an inspection is necessary, the Operator will pay the City for the inspection.

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 48 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.

- G. 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 well under a “blanket permit,” as described in Section 5.01 (C) 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.

- H. The Gas Well Permits required by this Ordinance are in addition to and are not in lieu of any permit which may be required by the Zoning Ordinance or any other provision of this Code or by any other governmental agency.
- I. No Gas Well Permit shall be issued for any well to be drilled within any floodway.
- J. By acceptance of any Gas Well Permit issued pursuant to this Ordinance, the Operator expressly stipulates and agrees to be bound by and comply with the provisions of this Ordinance. The terms of this Ordinance shall be deemed to be incorporated in any Gas Well Permit issued pursuant to this Ordinance with the same force and effect as if this Ordinance was set forth verbatim in such Gas Well Permit.

## **Section 5.02 Gas Well Permit Application and Filing Fees**

- A. Every application for a Gas Well Permit issued pursuant to this Ordinance shall be in writing signed by the Operator, or some person duly authorized to sign on his behalf, and filed with the Inspector.
- B. Every application shall be accompanied by a non-refundable permit fee as approved by resolution of the Arlington City Council. 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, up to a maximum of Five Thousand (\$5,000) dollars.
- C. The application shall include the following information:
  - 1. Proof of approved Specific Use Permit.
  - 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 names(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 Articles of Incorporation; and if the Operator is a partnership, the names and addresses of the general and limited partners. Copies of any Doing Business As 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. Location and description of all improvements and structures within six hundred (600) feet of the well.
12. Owner and address of each parcel of property within six hundred (600) feet of the proposed drill site.
13. A site plan of the proposed operation site showing the location of all improvements and equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, tanks, pipelines, compressors, separators and storage sheds.
14. 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.
15. The name, address and 24-hour phone number of the person to be notified in case of an emergency.
16. The exact and correct acreage and number of wells included in the Gas Well Permit application.
17. 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.
18. A description of public utilities required during drilling and operation.
19. A description of the water source to be used during drilling.
20. 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.
21. 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 of Arlington, Department of Public Works; Environmental Services Division three (3) days prior to the commencement of any onsite activity.
22. A copy of the determination by the Texas Commission on Environmental Quality of the depth of useable quality ground water.

23. The insurance and security requirement documents under this Ordinance.
24. A notarized statement signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct.
25. All required application and Gas Well Permit fees.

### **Section 5.03 Issuance of Gas Well Permit**

A Gas Well Permit shall be required if proposed well is to be located within the City on private property.

#### **A. Permitting Procedure**

1. It is the responsibility of the Inspector to review and approve or disapprove all applications for gas well drilling permits based on the criteria established by this Ordinance. The Inspector, within 30 days after the filing of a completed application and remittance of all fees, insurance and security per the requirements of this Ordinance for a Gas Well Permit, shall determine whether or not the application complies in all respects with the provisions of this Ordinance 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.
2. The provisions of this Ordinance 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 Inspector.
3. Within forty-five (45) days of the Inspector's determination that the application complies with all requirements, the Inspector shall place the matter on the City Council agenda for a public hearing 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 forty-five (45) day period shall not begin to run until the Inspector has made a determination that the application complies with all requirements.
4. 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 Ordinance, City shall notify, at Operator's expense, each surface owner of property, as shown by the current tax roll, within six hundred (600) feet of the proposed well not owned by or under lease to the Operator and the hearing date and time. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. Notice shall be sent to all registered neighborhood associations within one mile of the proposed drill site.
5. 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 Ordinance, Operator shall publish a copy of the notice as outlined below, at Operator's expense, in one 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 Arlington, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ filed with the Inspector of the City of Arlington, an application for a Gas Well Permit to drill, complete and operate a well for gas upon property located at \_\_\_\_\_, \_\_\_\_\_ County, Arlington, Texas, more particularly shown on the map of record in Volume \_\_\_\_\_, Page \_\_\_\_\_, Plat records of \_\_\_\_\_ County, Texas or per Tax Tract Number \_\_\_\_\_, \_\_\_\_\_ County, Texas. The City Council will conduct a public hearing on the request for said permit on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o’clock \_\_\_\_m. in the City Council Chambers located at 101 West Abram Street, Arlington, Texas.

6. 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 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.
  - a. 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.
  - b. 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 Ordinance.
  - c. Any sign(s) shall be removed within seven (7) days of final action by the City Council.
7. All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.
8. After a Permit application is submitted, the Inspector shall evaluate the public impact of the proposed activity. The Inspector 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 Inspector deems appropriate. The recommendation shall be submitted to the City Council for consideration prior to the public hearing.
9. At the public hearing and before the City Council considers the merits of the application and the recommendations of the Inspector, the applicant/Operator shall provide evidence of a certificate of publication establishing timely publication of the notice of the hearing, that timely actual notice of the hearing was given to all persons as required by this Ordinance and that the applicant/Operator has otherwise complied with or satisfied all other requirements of this Ordinance, including full and complete compliance with the insurance and security requirements.

10. The burden of proof on all matters considered in the hearing shall be upon the applicant/Operator.
11. 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:
  - a. 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;
  - b. Whether the drilling of such wells would conflict with the orderly growth and development of the City;
  - c. Whether there are other alternative well site locations;
  - d. 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;
  - e. Whether there is accessible access for the City fire personnel and fire fighting equipment;
  - f. 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:
    - (1) The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and
    - (2) The availability of alternative drill sites.
  - g. The recommendations of the Inspector.
12. The City Council may require an increase in the distance the well is setback from any residence, church, public building, hospital, public or private school, or public park, playground, or golf course or require any change in operation, plan, design, layout or any change in the on-site and technical regulations in Section 7.01 of this Ordinance, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.
13. 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.
14. The City Council may accept, reject or modify the application in the interest of securing compliance with this Ordinance, the City Code and/or to protect the health, safety and welfare of the community.
15. 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 Inspector in writing of his decision.

**B. Well setbacks for Gas Well Permit**

It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located within three hundred (300) feet from any public park (unless prior consent is obtained from the City Council to drill in a public park) or from any residence, church, public building, hospital, or public or private school for which a building permit has been issued on the date of the application for a drilling permit is filed with the Inspector. The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the property line of the building.

This setback distance may be reduced by the City Council to less than three hundred (300) feet from residence, church, public building, hospital, public or private school, or public park only when there is the unanimous consent of the property owners within a three hundred (300) foot radius around said well and the affirmative vote of not less than three-fourths 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.

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 to drill in a public park) or from any residence, church, public building, hospital, or public or private school for which a building permit has been issued on the date of 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. Fencing for Gas Well Permit**

1. A solid masonry wall 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.
2. Gates requirements and other fencing requirements as outlined in Section 7.02 of this Ordinance shall also be required.

**D. Landscaping**

Landscaping and irrigation shall be provided as identified in the approved Specific Use Permit.

It shall be the responsibility of the Operator to maintain the landscaping as identified per the City Landscape Ordinance.

**E. Vehicle Routes for Gas Well Permit**

Vehicles associated with drilling and/or production in excess of three 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.



**F. Work Hours for Gas Well Permit**

Site development, other than drilling, shall be conducted only between 6 a.m. and 7 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 6 a.m. to 7 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.

**G. Noise Restrictions for Gas Well Permit**

1. No drilling producing or other operations shall produce a sound level greater than 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) or more diametrically opposite positions, 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 85 dB(a) shall apply to formation fracturing when measured at a distance of three hundred (300) feet from the production equipment in question.
2. No person shall operate or permit to be operated in connection with the operation of a producing well any engine, compressor or motor-driven machinery of any type which creates a sound level greater than 65dB(a) when measured at a distance of three hundred (300) feet from the well site. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions measured at a distance of three hundred (300) feet from the well site.
3. Sound level measurements shall be made with a sound level meter conforming as a minimum, to the requirements of the American National Standards Institute.
4. If sound levels exceed the dB(a) levels cited in 1) and 2) of this subsection, the Inspector may require sound reducing mufflers.

**H. 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.

- I. All other provisions outlined in this Ordinance shall be required.

**Section 5.04 Denial of Gas Well Permit Application**

- A. If the Inspector denies a Gas Well Permit application for reasons other than lack of required distance as set out in this Ordinance 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 Inspector to deny the Gas Well

Permit, the Operator may: 1) cure those conditions that caused the denial and resubmit the application to the Inspector for approval and issuance of the Gas Well Permit; or 2) file an appeal to the City Council under the provisions outlined in this Ordinance pursuant to Section 9.01, "Appeals" of this Ordinance.

- B. If the Inspector determines that all of the provisions of this Ordinance have been complied with by the Operator but that the proposed drill site does not comply with the distance requirements of this Ordinance under the requested Gas Well Permit, the Inspector shall notify the Operator. The Operator may revise the permit to comply or the Inspector shall notify the official designated by the City Manager and the official shall place the request for a Gas Well Permit under this Ordinance on the City Council agenda for public hearing within the next forty-five (45) days.

### **Section 5.05 Amended Gas Well Permits**

- A. An Operator may submit an application to the Inspector to amend an existing Gas Well Permit 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 to otherwise amend the existing Gas Well Permit.
- B. Applications for amended Gas Well Permits shall be in writing, shall be signed by the Operator, and shall include the following:
  - 1. A non-refundable permit fee as approved by resolution of the Arlington City Council. 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, up to a maximum of Five Thousand (\$5,000) dollars.;
  - 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 Inspector to demonstrate compliance with the applicable Gas Well Permit; and
  - 5. Such additional information as is reasonably required by the Inspector to prevent imminent destruction of property or injury to persons.
- C. All applications for amended Gas Well Permits shall be filed with the 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 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.
- D. 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.

- 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 Gas Well Permit, then the Inspector 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 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 Gas Well Permit or that was not otherwise taken into consideration by the existing Gas Well Permit, the Inspector may require the amendment to be processed as a new Gas Well Permit application.
- F. The failure of the Inspector 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.
- G. The decision of the 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.
- H. 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.

#### **Section 5.06 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 Inspector 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 Ordinance.
- B. If, the Operator fails to correct the noncompliance within thirty (30) days from the date of the notice, the Inspector may suspend or revoke the Gas Well Permit pursuant to the provisions of this Ordinance.
- C. No person shall carry on any operations performed under the terms of the Gas Well Permit issued under this Ordinance 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 Ordinance, the Inspector, 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 Inspector in writing to suspend or revoke a Gas Well Permit, file an appeal to the City Council under the provisions outlined in this Ordinance pursuant to Section 9.01, "Appeals" of this Ordinance.
- F. If an application for a Gas Well Permit is denied by the Inspector, nothing herein contained shall prevent a new permit application from being submitted to the Inspector for the same well.

**Section 5.07 Periodic Reports**

- A. The Operator shall notify the Inspector of any changes to the following information within one 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 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 Inspector 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 business day.
- C. The Operator shall provide a copy of any "incident reports" or written complaints submitted to the Railroad Commission within 30 days after the Operator has notice of the existence of such reports or complaints.
- D. Beginning on December 31st after each well is completed, and continuing on each December 31st 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.

**ARTICLE VI**

**INSURANCE, BOND AND INDEMNITY**

**Section 6.01 Bond, Letters of Credit, Indemnity, Insurance**

**A. General Requirements**

The Operator shall be required to:

- 1. Comply with the terms and conditions of this Ordinance 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:**
  - a. **WHERE SUCH INJURIES, DEATH OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF OPERATOR AND ANY OTHER PERSON OR ENTITY; AND**
  - b. **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.

**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 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 is restored, whichever occurs first. The Operator shall be listed as principal and the instrument shall run to the City, as obligee, and shall be conditioned that the Operator will comply and perform in accordance with the terms and regulations of this Ordinance, 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 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. If the Letter of Credit is for a time period less than the life of the well as required by this Ordinance, the

Operator must agree to either renew the Letter of Credit or replace the Letter of Credit with a bond in the amount required by this Ordinance, 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 of Arlington 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 of Arlington may draw the entire face amount of the attached Letter of Credit to be held by the City of Arlington as security for Operator's performance of its obligations under this Ordinance.

The City shall be authorized to draw upon such Letter of Credit to recover any fines, penalties, defaults or violations assessed under this ordinance 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 (\$50,000) dollars for any single well. If, after completion of a well, the applicant/Operator, who initially posted a Fifty Thousand (\$50,000) dollars bond, has complied with all of the provisions of this Ordinance and whose well in the producing stage and all drilling operations have ceased, may submit a request to the Inspector to reduce the existing bond to Ten Thousand (\$10,000) dollars 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 (\$50,000) dollars.

An operator drilling or reworking between one and five 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 (\$150,000) dollars. If the operator drills or reworks more than five wells at a time, the blanket bond **or Letter of Credit** shall be increased in increments of Fifty Thousand (\$50,000) dollars 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:

<u>Number of Producing Wells</u>	<u>Blanket Bond /Letter of Credit Amount Required</u>
Up to 75 wells	\$100,000
75 to 150 wells	\$150,000
More than 150 wells	\$200,000

If at any time after no less than a fifteen (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 and Fifty Thousand (\$250,000) dollars per well.

- d. Whenever the Inspector finds that a default has occurred in the performance of any requirement or condition imposed by this Ordinance, 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 Ordinance.

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 Ordinance.

- 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.
- 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 Ordinance, 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 pursuant to this Ordinance, 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 except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess or Umbrella Liability, which may be on a claims-made 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 Arlington, Department of Planning and Development Services, 101 West Abram Street, Arlington, Texas 76010, 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 thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.
- i. During the term of the Gas Well Permit, the Operator shall report, in a timely manner, to the Inspector 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 (\$1,000,000) dollars per occurrence for Bodily Injury and Property Damage.

3. Excess or Umbrella Liability

\$ 5,000,000 Excess, if the Operator has a stand-alone Environmental Pollution Liability (EPL) policy.

\$10,000,000 Excess, if the Operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If Seepage and Pollution coverage is written on a “claims made” basis, the Operator must maintain continuous



coverage and purchase Extended Coverage Period Insurance when necessary.

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 (\$1,000,000) dollars per loss, with an annual aggregate of at least Ten Million (\$10,000,000) dollars.
- 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.
- c. The Operator shall maintain continuous coverage and shall purchase Extended Coverage Period insurance when necessary. The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.

5. Control of Well

The policy should 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.

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

\$ 500,000 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 (\$500,000) dollars 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 (\$1,000,000) dollars 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 set forth by the insurance company 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 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".
  - e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

**D. Indemnification and Express Negligence Provisions**

1. **EACH GAS WELL PERMIT ISSUED BY THE INSPECTOR 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 ARLINGTON, 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 ARLINGTON, TEXAS, 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 ARLINGTON, 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 ARLINGTON, 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 ARLINGTON 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 ARLINGTON 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 ARLINGTON, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF ARLINGTON, 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.**

**E. Notice**

The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail. Every Operator shall within ten (10) days notify the Inspector in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

**F. Acceptance and Indemnity Agreement.**

The Operator who has a net worth of not less than twenty-five million dollars (\$25,000,000), as shown in such Owner's or Operator's most recent audited financial statements, may substitute an acceptance and indemnity agreement in lieu of the bond or irrevocable letter of credit and insurance requirements set forth in this Ordinance, provided that such acceptance and indemnity agreement shall be in a form acceptable to, and approved by, the City Attorney and the Risk Manager of the City. The Inspector may request an annual review of the Operator's most recent audited financial statements to assure compliance with this section.

**ARTICLE VII**

**ON SITE AND TECHNICAL REGULATIONS**

## **Section 7.01 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 preventors, 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 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 Inspector 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 Department 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 well heads 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 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 operator of a gas well shall provide the Inspector 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 and 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 Department 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 three hundred (300) 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 Inspector that fracing 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 Inspector 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 operation; 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 of Arlington.
21. **Signs.**
  - a. A sign shall be immediately and prominently displayed at the gate on the fencing erected pursuant to Section 7.02 of this Ordinance. 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 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 Department shall be the entity 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 other specifications are approved by the Fire Chief. 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 feet (3') in height and one and one-half (1½) 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 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 aboveground 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 the 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, re-working 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 Ordinance 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 re-working of a well when other workmen are not on the premises.

**B. Well 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 three hundred (300) feet from any 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 1) through 6) above.

The distances set out in subsection 1), 3), 4), or 6) of this section 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 two hundred (200) foot radius around said well and the affirmative vote of not less than three-fourths 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.

**C. Installation of pipelines on, under or across public property.**

The Operator shall apply to the City for a franchise or other Arlington 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 Ordinance. 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 Services of the City a plat showing the location of such pipelines.
3. Construct such lines out of pipe in accordance with the City codes and regulations properly cased and vented if under a street;
4. Grade, level and restore such property to the same surface condition, 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 shown by the current comprehensive plan of the City, 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 Inspector. Any consent from the Inspector 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.

## **Section 7.02 Fences, Walls, Screening**

- A. **Fences/Walls.** Fences shall not be required on drill sites during initial drilling, completion or re-working 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 solid masonry wall according to the requirements of the requested Gas Well Permit, as follows:
1. **Masonry wall specifications.** All walls (either site constructed or prefabricated) shall be of masonry approved by the Inspector. All walls used to enclose in whole or in part any drilling or production site shall be constructed in accordance with standard engineering practices and shall meet the following specifications:
    - a. The wall shall be of a design compatible with the facilities, buildings and structures on and adjacent to the site; and
    - b. The wall shall be at least eight (8) feet in height.
- B. **Gate specifications.** All masonry walls 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 City Fire Chief with a “Knox Padlock” or “Knox Box with a key” to access the well site to be used only in case of an emergency.

## **Section 7.03 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. **Clean-up 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 City Fire Chief and the Inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. If the owner fails to begin site clean-up 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 Inspector 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 Ordinance and shall notify the Inspector as soon as practicable. The Inspector shall certify in writing, briefly describing the same, to the official designated by the City Manager. If the Inspector, 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 Inspector 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 Inspector 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 Inspector in gaining control of said well.

#### **Section 7.04 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 Ordinance.
  
- B. Abandonment shall be approved by the Inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the Inspector:
  - 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 Ordinance.

- C. **Abandoned well requirement.** The Operator shall furnish the following at the discretion of the Inspector:
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.

## ARTICLE VIII

### TECHNICAL ADVISOR

#### Section 8.01 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 Ordinance, 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 Ordinance. 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.

## ARTICLE IX

### APPEALS

#### Section 9.01 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 as provided by this Ordinance. Any person or entity whose application is denied by the Inspector (other than for distance requirements set out in this Ordinance) 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 Inspector 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 resolution of the Arlington City Council.

## **ARTICLE X**

### **PENALTY**

#### **Section 10.01 Penalty**

- A. 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 Ordinance.
  2. Fail to comply with any condition set forth in a Gas Well Permit issued under this Ordinance; or.
  3. Violate any provision or requirement set forth under this Ordinance.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand (\$2,000) dollars per day for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or

any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **18th** day of **November, 2003**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **25th** day of **November, 2003**, by a vote of **8** ayes and **0** nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

**Ordinance No. 05-113**

**An ordinance of the City of Arlington, Texas amending the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Articles I-X; providing for a fine of up to \$2,000.00 for each violation; providing for repeal of conflicting ordinances, severability, governmental immunity, injunctions, publication and becoming effective ten days after first publication.**

WHEREAS, there has been increased interest in gas drilling and production within the City of Arlington; and

WHEREAS, the City of Arlington currently requires appropriate zoning for gas drilling and production; and

WHEREAS, on November 25, 2003, the City Council adopted the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas for the drilling and production of gas within the city limits on private property and to protect the health, safety and welfare of its citizens; and

WHEREAS, the City Council deems it necessary to revise the existing comprehensive regulations for the drilling and production of gas; NOW THEREFORE

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:**

1.

That the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended so that hereafter said Chapter shall be and read as follows:

**ARTICLE I**

**GENERAL PROVISIONS**

**Section 1.01 Short Title**

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

**Section 1.02 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 Ordinance 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 Ordinance might be inconsistent or in conflict with the specific provisions of any other Ordinance of the City of Arlington, this Ordinance shall control with regard to the conflict.

## ARTICLE II

### DEFINITIONS

#### Section 2.01 Definitions

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this Ordinance shall have the meanings customarily attributable thereto by prudent and reasonable gas industry Operators. The following words, terms and phrases, when used in this Ordinance, 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 Ordinance.

**“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”** is 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 Arlington.

**“City Code”** means the Code of the City.



**“City Attorney”** means the City Attorney of the City.

**“Completion of Drilling, Re-drilling and Re-working”** means the date the work is completed for the drilling, re-drilling or re-working and the drilling equipment is released by the Operator.

**“Derrick”** means any portable framework, tower, mast and/or structure which is required or used in connection with drilling or re-working 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, completion or re-working of a well or wells located there 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”** or **“well”** means any well drilled, to be drilled, or used for the intended or actual production of natural gas or other hydrocarbons.

**“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.

**“Inspector”** means the Gas Inspector or Building Official designee.

**“Operation Site”** means the area within a well site used for development and production of gas and all operational activities associated with a gas well after drilling and completion activities are finished.

**“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, completing, 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 Ordinance, 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 Ordinance, 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, Playground, or Golf Course”** means 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 water courses.

**“Public or Private School”** means an educational institution, attendance at which satisfies the compulsory education laws of the State of Texas or 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.

**“Re-working”** 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 casing.

**“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 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.

## **ARTICLE III**

### **INSPECTOR**

#### **Section 3.01. Inspector**

- A. The City Manager shall designate an official who shall enforce the provisions of this Ordinance. The official may retain a Gas Inspector or Building Official designee, who shall have 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 Inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this Ordinance and its particular provisions.
- B. The Inspector shall have the authority to enter and inspect any premises covered by the provisions of this Ordinance to determine compliance with the provisions of this Ordinance and all applicable laws, rules, regulations, standards or directives of the State. Failure of any person to permit access to the Inspector shall constitute a violation of this Ordinance. The Inspector 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 Ordinance and all regulations of the Railroad Commission.
- C. The Inspector shall have the authority to request and receive any records, including any records sent to the Railroad Commission, reports and the like, relating to the status or condition of any permitted gas well necessary to establish and determine compliance with the applicable Gas Well Permit.

## **ARTICLE IV**

### **AGENT**

#### **Section 4.01 Operator's Agent**

Every Operator of any gas well shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this Ordinance 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.

## **ARTICLE V**

### **GAS WELL PERMITS**

#### **Section 5.01 Gas Well Permit Required**

- A. Approved zoning is required before a Gas Well Permit can be obtained from the City.
- B. 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, re-working, completion 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 Ordinance. Activities include, but are not limited to re-working, initial site preparation, drilling, operation, construction of rigs or tank batteries, and fracturing. A permit shall not be required for seismic surveys. Written notice

must be given to the Inspector no less than ten (10) days before the activities begin.

- C. Operator must apply for and obtain a Gas Well Permit for the drilling, re-drilling, deepening, re-entering, activating or converting of each well on private property.
- D. A Gas Well Permit shall not constitute authority for the re-entering of an abandoned well. An Operator shall obtain a new Gas Well Permit in accordance with the provisions of this Ordinance if the Operator is re-entering an abandoned well.
- E. When a Gas Well Permit has been issued to the Operator for the drilling, re-drilling, deepening, re-entering, activating or converting of a well, such Gas Well Permit shall constitute sufficient authority for drilling, completion, operation, production gathering or production maintenance, repair, re-working, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well, provided, however, that 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. Any person who intends to re-work a permitted well using a drilling rig, or to recomplete or fracture stimulate a permitted well after initial completion or to conduct seismic surveys or other exploration activities shall give written notice to the Inspector 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 Inspector, 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 Inspector determines that an inspection is necessary, the Operator will pay the City for the inspection.

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 48 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.

- G. 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.

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.

- H. The Gas Well Permits required by this Ordinance are in addition to and are not in lieu of any permit which may be required by the Zoning Ordinance or any other provision of this Code or by any other governmental agency.
- I. No Gas Well Permit shall be issued for any well to be drilled within any floodway, as defined in the Flood Hazards Chapter of the Code of the City of Arlington.
- J. By acceptance of any Gas Well Permit issued pursuant to this Ordinance, the Operator expressly stipulates and agrees to be bound by and comply with the provisions of this Ordinance. The terms of this Ordinance shall be deemed to be incorporated in any Gas Well Permit issued pursuant to this Ordinance with the same force and effect as if this Ordinance was set forth verbatim in such Gas Well Permit.

**Section 5.02 Gas Well Permit Application and Filing Fees**

- A. Every application for a Gas Well Permit issued pursuant to this Ordinance shall be in writing signed by the Operator, or some person duly authorized to sign on his behalf, and filed with the Inspector.
- B. Every application shall be accompanied by a non-refundable permit fee as approved by resolution of the Arlington City Council. The Applicant/Operator, in addition to the usual application fee, shall pay the City for the actual cost to the City for the services of an inspector and/or technical expert to review the application and/or information supplement.

Additional services the City incurs for services of an inspector and/or technical expert shall be paid by the Operator at the standard hourly rate plus expenses.

- C. The application shall include the following information:
  - 1. Proof of approved zoning.
  - 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 names(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 Articles of Incorporation; and if the Operator is a partnership, the names and addresses of the general and limited partners. Copies of any Doing Business As 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. Location and description of all buildings within six hundred (600) feet of the well.
12. Owner and address of each parcel of property within six hundred (600) feet of the proposed gas well.
13. A site plan of the proposed drill site and operation site showing the location of all improvements and equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, tanks, pipelines, compressors, separators and storage sheds.
14. 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.
15. The name, address and 24-hour phone number of the person to be notified in case of an emergency.
16. The exact and correct acreage and number of wells included in the Gas Well Permit application.
17. 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.
18. A description of public utilities required during drilling and operation.
19. A description of the water source to be used during drilling.
20. 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.
21. 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 of Arlington, Department of Public Works; Environmental Services Division three (3) days prior to the commencement of any onsite activity.
22. A copy of the determination by the Texas Commission on Environmental Quality of the depth of useable quality ground water.
23. The insurance and security requirement documents under this Ordinance.
24. A notarized statement signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct.

25. All required application and Gas Well Permit fees.
26. An Emergency Action 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. Plan should include “drive-to-maps” from public rights-of-way to drill site.
27. A Hazardous Materials Management Plan shall be submitted and be on file with the Fire Department and the Inspector.

### **Section 5.03 Issuance of Gas Well Permit**

A Gas Well Permit shall be required if proposed well is to be located within the City on private property.

#### **A. Permitting Procedure**

1. It is the responsibility of the Inspector to review and approve or disapprove all applications for gas well drilling permits based on the criteria established by this Ordinance. The Inspector, within 30 days after the filing of a completed application and remittance of all fees, insurance and security per the requirements of this Ordinance for a Gas Well Permit, shall determine whether or not the application complies in all respects with the provisions of this Ordinance 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.
2. The provisions of this Ordinance 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 Inspector.
3. Within forty-five (45) days of the Inspector’s determination that the application complies with all requirements, the Inspector shall place the matter on the City Council agenda for a public hearing 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 forty-five (45) day period shall not begin to run until the Inspector has made a determination that the application complies with all requirements.
4. 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 Ordinance, City shall notify, at Operator’s expense, each surface owner of property, as shown by the current tax roll, within six hundred (600) feet of the proposed well not owned by or under lease to the Operator and the hearing date and time. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. Notice shall be sent to all registered neighborhood associations within one mile of the proposed drill site.
5. 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 Ordinance, Operator shall publish a copy of the notice as outlined

below, at Operator's expense, in one 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 Arlington, Texas, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ filed with the Inspector of the City of Arlington, an application for a Gas Well Permit to drill, complete and operate a well for gas upon property located at \_\_\_\_\_, \_\_\_\_\_ County, Arlington, Texas, more particularly shown on the map of record in Volume \_\_\_\_\_, Page \_\_\_\_\_, Plat records of \_\_\_\_\_ County, Texas or per Tax Tract Number \_\_\_\_\_, \_\_\_\_\_ County, Texas. The City Council will conduct a public hearing on the request for said permit on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_ o'clock \_\_\_\_m. in the City Council Chambers located at 101 West Abram Street, Arlington, Texas.

6. 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 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.
  - a. 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.
  - b. 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 Ordinance.
  - c. Any sign(s) shall be removed within seven (7) days of final action by the City Council.
7. All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.
8. After a Permit application is submitted, the Inspector shall evaluate the public impact of the proposed activity. The Inspector 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 Inspector deems appropriate. The recommendation shall be submitted to the City Council for consideration prior to the public hearing.
9. At the public hearing and before the City Council considers the merits of the application and the recommendations of the Inspector, the applicant/Operator shall provide evidence of a certificate of publication establishing timely publication of the notice of the hearing, that timely actual notice of the hearing was given to all persons as required by this



Ordinance and that the applicant/Operator has otherwise complied with or satisfied all other requirements of this Ordinance, including full and complete compliance with the insurance and security requirements.

10. The burden of proof on all matters considered in the hearing shall be upon the applicant/Operator.
11. 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:
  - a. 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;
  - b. Whether the drilling of such wells would conflict with the orderly growth and development of the City;
  - c. Whether there are other alternative well site locations;
  - d. 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;
  - e. Whether there is accessible access for the City fire personnel and fire fighting equipment;
  - f. 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:
    - (1) The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and
    - (2) The availability of alternative drill sites.
  - g. The recommendations of the Inspector.
12. 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 golf course or require any change in operation, plan, design, layout or any change in the on-site and technical regulations in Section 7.01 of this Ordinance, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.
13. 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.

14. The City Council may accept, reject or modify the application in the interest of securing compliance with this Ordinance, the City Code and/or to protect the health, safety and welfare of the community.
15. 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 Inspector in writing of his decision.

**B. Well setbacks for Gas Well Permit**

It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located within three hundred (300) feet from any public park (unless prior consent is obtained from the City Council to drill in a public park) or from any residence, church, hospital, or public or private school for which a building permit has been issued on the date of the application for a drilling permit is filed with the Inspector. The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the property line of the building.

This setback distance may be reduced by the City Council to less than three hundred (300) feet from residence, church, hospital, public or private school, or public park only when there is the unanimous consent of the surface property owners within a three hundred (300) foot radius around said well and the affirmative vote of not less than three-fourths 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.

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 to drill in a public park) or from any residence, church, hospital, or public or private school for which a building permit has been issued on the date of 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. Fencing for Gas Well Permit**

1. A solid masonry wall a minimum of eight (8) feet but not to exceed ten (10) feet in height shall enclose all completed wells and tanks located within an operation site.
2. Gates requirements and other fencing requirements as outlined in Section 7.02 of this Ordinance shall also be required.

**D. Landscaping**

Landscaping and irrigation shall be provided as identified with the approved appropriate zoning.

It shall be the responsibility of the Operator to maintain the landscaping as identified per the City Landscape Ordinance.

**E. Vehicle Routes for Gas Well Permit**

Vehicles associated with drilling and/or production in excess of three 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.

**F. Work Hours for Gas Well Permit**

Site development, other than drilling, shall be conducted only between 6 a.m. and 7 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 6 a.m. to 7 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.

**G. Noise Restrictions for Gas Well Permit**

1. No drilling producing or other operations shall produce a sound level greater than 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) or more diametrically opposite positions, 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 85 dB(a) shall apply to formation fracturing when measured at a distance of three hundred (300) feet from the production equipment in question.
2. No person shall operate or permit to be operated in connection with the operation of a producing well (excluding formation fracturing) any engine, compressor or motor-driven machinery of any type which creates a sound level greater than 65dB(a) when measured at a distance of three hundred (300) feet from the well site. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four (4) or more diametrically opposite positions measured at a distance of three hundred (300) feet from the well site.
3. Sound level measurements shall be made with a sound level meter conforming as a minimum, to the requirements of the American National Standards Institute.
4. If sound levels exceed the dB(a) levels cited in 1) and 2) of this subsection, the Inspector may require sound reducing mufflers.

**H. 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.

- I. All other provisions outlined in this Ordinance shall be required.

**Section 5.04 Denial of Gas Well Permit Application**

- A. If the Inspector denies a Gas Well Permit application for reasons other than lack of required distance as set out in this Ordinance 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 Inspector to deny the Gas Well Permit, the Operator may: 1) cure those conditions that caused the denial and resubmit the application to the Inspector for approval; or 2) file an appeal to the City Council under the provisions outlined in this Ordinance pursuant to Section 9.01, “Appeals” of this Ordinance.
- B. If the Inspector determines that all of the provisions of this Ordinance have been complied with by the Operator but that the proposed drill site does not comply with the distance requirements of this Ordinance under the requested Gas Well Permit, the Inspector shall notify the Operator. The Operator may revise the permit to comply or the Inspector shall notify the official designated by the City Manager and the official shall place the request for a Gas Well Permit under this Ordinance on the City Council agenda for public hearing within the next forty-five (45) days.

**Section 5.05 Amended Gas Well Permits**

- A. An Operator may submit an application to the Inspector to amend an existing Gas Well Permit 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 to otherwise amend the existing Gas Well Permit.
- B. Applications for amended Gas Well Permits shall be in writing, shall be signed by the Operator, and shall include the following:
  - 1. A non-refundable permit fee as approved by resolution of the Arlington City Council. The Applicant/Operator, in addition to the usual application fee, shall pay the City for the actual cost to the City for the services of an inspector and/or technical expert to review the application and/or information supplement;  
  
Additional services the City incurs for services of an inspector and/or technical expert shall be paid by the Operator at the standard hourly rate plus expenses.
  - 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 Inspector to demonstrate compliance with the applicable Gas Well Permit; and

5. Such additional information as is reasonably required by the Inspector to prevent imminent destruction of property or injury to persons.
- C. All applications for amended Gas Well Permits shall be filed with the 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 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.
- D. 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.
- 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 Gas Well Permit, then the Inspector 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 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 Gas Well Permit or that was not otherwise taken into consideration by the existing Gas Well Permit, the Inspector may require the amendment to be processed as a new Gas Well Permit application.
- F. The failure of the Inspector 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.
- G. The decision of the 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.
- H. An Operator must submit an application 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.

**Section 5.06 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 Inspector 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.
- B. If, the Operator fails to correct the noncompliance within the cure period stated in the notice, the Inspector may suspend or revoke the Gas Well Permit pursuant to the provisions of this Ordinance.

- C. No person shall carry on any operations performed under the terms of the Gas Well Permit issued under this Ordinance 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 Ordinance, the Inspector, 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 Inspector in writing to suspend or revoke a Gas Well Permit, file an appeal to the City Council under the provisions outlined in this Ordinance pursuant to Section 9.01, "Appeals" of this Ordinance.
- F. If an application for a Gas Well Permit is denied by the Inspector, nothing herein contained shall prevent a new permit application from being submitted to the Inspector for the same well.

#### **Section 5.07 Periodic Reports**

- A. The Operator shall notify the Inspector of any changes to the following information within one 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 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 Inspector 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 business day.
- C. The Operator shall provide a copy of any "incident reports" or written complaints submitted to the Railroad Commission within 30 days after the Operator has notice of the existence of such reports or complaints.
- D. Within 30 days beginning on December 31st after each well is completed, and continuing on each December 31st 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.

## ARTICLE VI

### INSURANCE, BOND AND INDEMNITY

#### Section 6.01 Bond, Letters of Credit, Indemnity, Insurance

##### A. **General Requirements**

The Operator shall be required to:

1. Comply with the terms and conditions of this Ordinance 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. Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the Gas Well Permit.
4. Promptly restore to its former condition any roadway, right-of-way, or other public property damaged by the gas operation.

##### 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 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 is restored, whichever occurs first. The Operator shall be listed as principal and the instrument shall run to the City, as obligee, and shall be conditioned that the Operator will comply and perform in accordance with the terms and regulations of this Ordinance, 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 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. If the Letter of Credit is for a time period less than the life of the well as required by this Ordinance, the Operator must agree to either renew the Letter of Credit or replace the Letter of Credit with a bond in the amount required by this Ordinance, 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 of Arlington 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 of Arlington may draw the entire face amount of the attached Letter of Credit to be held by the City of Arlington as security for Operator's performance of its obligations under this Ordinance.

The City shall be authorized to draw upon such Letter of Credit to recover any fines, penalties, defaults or violations assessed under this ordinance 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 (\$50,000) dollars for any single well. If, after completion of a well, the applicant/Operator, who initially posted a Fifty Thousand (\$50,000) dollars bond, has complied with all of the provisions of this Ordinance and whose well in the producing stage and all drilling operations have ceased, may submit a request to the Inspector to reduce the existing bond to Ten Thousand (\$10,000) dollars 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 (\$50,000) dollars.

If at any time after no less than a fifteen (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 and Fifty Thousand (\$250,000) dollars per well.

- d. Whenever the Inspector finds that a default has occurred in the performance of any requirement or condition imposed by this Ordinance, 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 Ordinance.

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 Ordinance.

- 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.
- 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 Ordinance, 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 pursuant to this Ordinance, 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" on all applicable policies. A copy of the endorsement is required for evidence of coverage.
  - b. All policies shall be endorsed with a waiver of subrogation in favor of the City. A copy of the endorsement is required for evidence of coverage.
  - c. All policies shall be written on an occurrence basis where commercially available.
  - d. All policies shall be written by an insurer with an A-: VII 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.
  - e. Deductibles shall be listed on the Certificate of Insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.

- f. Certificates of Insurance shall be delivered to the City of Arlington, Department of Planning and Development Services, 101 West Abram Street, Arlington, Texas 76010, and to Risk Management, 101 West Abram Street, Arlington, Texas 76010 evidencing all the required coverages, including endorsements, prior to the issuance of a Gas Well Permit.
- 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 thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.
- i. During the term of the Gas Well Permit, the Operator shall report, in a timely manner, to the Inspector 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. 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 of One Million (\$1,000,000) dollars per occurrence.

3. Excess or Umbrella Liability

\$ 5,000,000 Excess, if the Operator has a stand-alone Environmental Pollution Liability (EPL) policy.  
 \$10,000,000 Excess, if the Operator does not have a stand-alone EPL policy.  
 Coverage must include an endorsement for sudden or accidental pollution. If coverage is written on a “claims made” basis, the Operator must maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the Gas Well Permit.

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 (\$1,000,000) dollars per loss, with an annual aggregate of at least Ten Million (\$10,000,000) dollars.

- 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.
- c. The Operator shall maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the Gas Well Permit.

The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.

5. Control of Well Coverage

The policy should 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.

\$ 5,000,000	per occurrence/no aggregate, if available, otherwise an aggregate of Ten Million (\$10,000,000) dollars.
\$ 500,000	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 (\$500,000) dollars 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 (\$1,000,000) dollars per occurrence for Bodily Injury and Property Damage.
- b. Coverage must include all owned, hired and not-owned automobiles.
- c. The City shall be named as an additional insured on the policy.

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 set forth by the insurance company 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 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".
- e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

**D. Indemnification and Express Negligence Provisions**

- 1. **EACH GAS WELL PERMIT ISSUED BY THE INSPECTOR 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 ARLINGTON, 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 ARLINGTON, TEXAS, 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 ARLINGTON, 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 ARLINGTON, 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 ARLINGTON 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 ARLINGTON 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 ARLINGTON, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF ARLINGTON, 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.

E. **Notice**

The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail. Every Operator shall within ten (10) days notify the Inspector in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

**ARTICLE VII**

**ON SITE AND TECHNICAL REGULATIONS**

**Section 7.01 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 buildings 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

operations as required by and in conformance with the requirements of the Railroad Commission and the recommendations of the American Petroleum Institute.

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 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 Inspector 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 Department 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 drill 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 well heads shall contain an emergency shut off valve to the well production sale line.
12. **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 drill site and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.
13. **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.
14. **Hazardous Plan.** A Hazardous Materials Management Plan shall be on file with the Fire Department and the Inspector.
15. **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 three hundred (300) feet.
16. **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 Inspector that fracturing will occur before or after daylight hours to meet safety requirements.

17. **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. The Operator shall provide temporary fencing around pits.

18. **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, gravel or caliche. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the Inspector 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 operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind.
19. **Salt Water Wells.** No salt water disposal wells shall be located within the City of Arlington.
20. **Signs.**
  - a. A sign shall be immediately and prominently displayed at the gate on the fencing erected pursuant to Section 7.02 of this Ordinance. 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 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 except as required by the Railroad Commission.
21. **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 Department shall be the entity 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 an operation site. This shall not be deemed to exclude a conventional gas separator or dehydrator.

22. **Storage Tanks.** 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. 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 feet (3') in height and one and one-half (1½) 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 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 aboveground 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, hospital, public or private school, or combustible structure.

23. **Tank Battery Facilities.** Tank battery facilities shall be equipped with a lightning arrestor system.
24. **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 the valve in an emergency.
25. **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. 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, re-working 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 Ordinance and any other applicable ordinance of the City.

26. **Watchman.** The Operator must keep a watchman or security personnel on site during the drilling or re-working of a well when other workmen are not on the premises.

#### B. **Well 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 drill 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 one hundred (100) feet of any building accessory to, but not necessary to the operation of the well; or
5. Within two hundred (200) feet to any fresh water well on property owned by or under control of the Operator. 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 1) through 6) above.

The distances set out in subsection 1), 3), 4), or 6) of this section may be reduced at the discretion of the City Council, but never less than two hundred (200) feet from any residence without the unanimous consent of the surface property owners within a two hundred (200) foot radius around said well and the affirmative vote of not less than three-fourths 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.

#### C. **Installation of pipelines on, under or across public property.**

The Operator shall apply to the City for a franchise or other Arlington 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 Ordinance. 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 Services of the City a plat showing the location of such pipelines.
3. Construct such lines out of pipe in accordance with the City codes and regulations properly cased and vented if under a street;
4. Grade, level and restore such property to the same surface condition, 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 shown by the current comprehensive plan of the City, 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 Inspector. Any consent from the Inspector 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.

D. **Required Inspections.** The following inspections are required:

1. **Surface Casing.** The Operator's agent shall notify the Inspector in writing (email, fax, or U.S. Postal mail) at least 72 hours prior to running and cementing surface casing. The procedures to be followed in this operation shall be as provided in Cementing, Rule No. 13 of the Railroad Commission. In addition, the following shall be required:
  - a. Centralizers (1per 100ft. or 10 per1000 ft.)
  - b. New surface casing
  - c. Adequate or proper floating equipment
  - d. Class "H" of Class "C" cement with accelerators
  - e. Example: Class "C" with 3 percent CaCl<sub>2</sub>
  - f. Cement circulated to surface. If not, cement with 1" tubing & top off
  - g. Wait on cement a minimum of 8 to 12 hrs
  - h. Test Blowout Preventor before drilling out of surface casing to 1000 psi
2. **Completion.** The Operator's agent shall notify Inspector in writing at least 72 hours prior to starting completion procedures such as perforating and fracing. The well must be equipped with a Blowout Preventor before this operation is commenced. Also, if a bridge plug is set over a producing formation prior to additional completion, it must be pressure tested to a sufficient pressure to ensure that it is not leaking.

3. **Pipeline hookup.** The Operator's agent shall notify the Inspector in writing at least 72 hours prior to the first sale. The tank battery shall be equipped with a lightning arrester.
4. **Final Acceptance.** Within 30 days of the start of production of a well, or of the operation of a pipeline, the Inspector will inspect and accept or reject the well site or pipeline installation site "clean-up" and permanent provisions for security and screening of the well site. The Inspector will provide the Operator written notification of acceptance within 10 working days. If the "clean-up" or proposed provisions for security and screening are rejected by the Town, the Operator will be notified of the rejection and the reasons for the rejection in writing within 10 working days. The Operator must take action to nullify and correct the reasons for rejection within 30 calendar days from the notification.

**E. Operations and Equipment; Practices, Standards, and Appearance**

1. All drilling and pipeline operations shall be conducted in accordance with the practices of a reasonable and prudent operation in the State of Texas. All material, equipment, and testing used shall be of a quality and type consistent with such practice.
2. Each Operator shall take special care that no ground water is contaminated by the drilling, pipeline installation or production activities. All rules of the Federal Government, the State of Texas, and the City regarding protecting natural resources must be strictly followed.
3. Drilling and pipeline production operations shall be conducted in such a manner as to minimize noise, vibration, dust, odors, or other nuisances. Internal combustion engines used on the well or pipeline site must be fitted with exhaust mufflers. For production purposes, only electrically or natural gas powered compressors or motors may be used.
4. No refining of any kind, except for gas dehydrating and physical phase separation, shall take place at the well site.
5. The well site shall not be allowed to become dilapidated, unsightly, or unsafe.
6. The well or pipeline site shall not be used to store pipe, drilling equipment or materials after the drilling or pipeline installation operation has ceased.
7. No refining plant or main line compression station or cooling plant shall be allowed in the City at any time.
8. Flaring or burning of gas or petroleum of any kind after the well is in production is prohibited. Temporary flaring or burning to accommodate public safety may be performed but only when approved by the Inspector.

## **Section 7.02 Fences, Walls, Screening**

- A. **Fences/Walls.** Fences shall not be required on drill sites during initial drilling, completion or re-working 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 solid masonry wall or equivalent screening. The masonry wall shall be provided according to the requirements of the requested Gas Well Permit, as follows:
1. **Masonry wall specifications.** All walls (either site constructed or prefabricated) shall be of masonry approved by the Inspector. All walls used to enclose in whole or in part any drilling or production site shall be constructed in accordance with standard engineering practices and shall meet the following specifications:
    - a. The wall shall be of a design compatible with the facilities, buildings and structures on and adjacent to the site; and
    - b. The wall shall be at least eight (8) feet in height.
- B. **Gate specifications.** All masonry walls 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 City Fire Chief with a “Knox Padlock” or “Knox Box with a key” to access the well site to be used only in case of an emergency.

## **Section 7.03 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 of all damage to public property caused by such operations to be completed within sixty (60) days.
- B. **Clean-up 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 City Fire Chief and the Inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. If the owner fails to begin site clean-up 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 Inspector 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 Ordinance and shall notify the Inspector as soon as practicable. The Inspector shall certify in writing, briefly describing the same, to the official designated by the City Manager. If the Inspector, 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 Inspector 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 Inspector 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 Inspector in gaining control of said well.

**Section 7.04 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 Ordinance.
- B. Abandonment shall be approved by the Inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the Inspector:
  - 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 Ordinance.
- C. **Abandoned well requirement.** The Operator shall furnish the following at the discretion of the Inspector:
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.

## ARTICLE VIII

### TECHNICAL ADVISOR

#### **Section 8.01 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 Ordinance, 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 Ordinance. 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.

## ARTICLE IX

### APPEALS

#### **Section 9.01 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 as provided by this Ordinance. Any person or entity whose application is denied by the Inspector (other than for distance requirements set out in this Ordinance) 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 Inspector 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 resolution of the Arlington City Council.

## **ARTICLE X**

### **PENALTY**

#### **Section 10.01 Penalty**

- A. 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 Ordinance.
  2. Fail to comply with any condition set forth in a Gas Well Permit issued under this Ordinance; or.
  3. Violate any provision or requirement set forth under this Ordinance.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

All ordinances and provisions of ordinances of the City of Arlington, Texas, that are in conflict with this Ordinance shall be, and are hereby repealed, and all ordinances and provisions of ordinances not so repealed are hereby retained in full force and effect.



4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication.

PRESENTED AND GIVEN FIRST READING on the 6th day of December, 2005, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 20th day of December, 2005, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY Ivan Bland

Ordinance No. 07-074

**An ordinance of the City of Arlington, Texas, amending the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Articles I-X; providing for a fine of up to \$2,000 for each violation; providing for repeal of conflicting ordinances, severability, governmental immunity, injunctions, publication and becoming effective ten days after first publication**

WHEREAS, there has been increased interest in gas drilling and production within the City of Arlington; and

WHEREAS, the City of Arlington currently requires appropriate zoning for gas drilling and production; and

WHEREAS, on November 25, 2003, the City Council adopted the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas regarding permitting and regulation for the drilling and production of gas within the city limits on private property and to protect the health, safety and welfare of its citizens; and

WHEREAS, on December 20, 2005, the City Council adopted revisions to the Gas Drilling and Production Chapter of the Code of the City of Arlington, Texas; and

WHEREAS, it is advisable to amend the current regulations for the drilling, production and redrilling of gas within the city limits on private and public property so that these activities may be conducted in a manner that protects the public health, safety and welfare of the citizens of Arlington, conforms with established codes and regulations while minimizing any adverse impact to the Public; and

WHEREAS, the City Council deems it necessary to revise the Gas Drilling and Production Chapter to further protect the health, safety and welfare of the citizens of the City of Arlington; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended so that hereafter said Chapter shall be and read as follows:

## ARTICLE I

### GENERAL PROVISIONS

#### Section 1.01 Short Title

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

#### Section 1.02 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 Ordinance to establish reasonable and uniform limitations, safeguards and regulations for present and future operations on private and public property that will serve as minimum standards for 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 and public property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources.

This Chapter will be considered minimum standards for private and public property. The City Council may approve permits, leases and other documents pertaining to private and public property that contain provisions that modify the minimum standards in this Chapter to further protect the health and safety of the public.

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

## ARTICLE II

### DEFINITIONS

#### Section 2.01 Definitions

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this Ordinance shall have the meanings customarily attributable thereto by prudent and reasonable gas industry Operators. The following

words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

***Abandonment.*** “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 Ordinance.

***Ambient noise level.*** The all encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

***Blowout Preventer.*** 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.*** Any structure. The structure may serve for the support, shelter, or enclosure or partial enclosure of persons, animals, chattels, or movable property of any kind including pools.

***Building Official.*** The officer or other designated authority charged with administration and enforcement of this Chapter, or the Building Official’s duly authorized representative.

***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.

***Church.*** 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.*** The City of Arlington.

***City Code.*** The Code of the City.

***City Attorney.*** The City Attorney of the City.

***Closed Loop Mud System.*** A series of above-ground tanks used to store, process, and recycle drilling mud, cuttings and other fluids. This system is used in place of the traditional earthen pits at a drilling operation.

**Completion.** The date the work is completed for the drilling, re-drilling or re-working and the drilling equipment is released by the Operator.

**Daytime.** The period from 6:00 a.m. to 7:00 p.m.

**Decibel (db).** A unit of measurement of noise intensity. The measurements are based on the energy of the sound waves, and the units are logarithmic.

**Derrick.** Any portable framework, tower, mast and/or structure which is required or used in connection with drilling or re-working a well for the production of gas.

**Drilling.** 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.** 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.** The premises used during the drilling, completion or re-working of a well or wells located there or any associated operation.

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

**FEMA.** Federal Emergency Management Agency.

**Fire Department.** The Fire Department of the City.

**FIRM.** Flood Insurance Rate Map.

**Fracture Stimulation (Fracing).** The process of injecting water, steam or gas into a natural gas well to improve natural gas recovery.

**Gas.** 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 or well.** Any well drilled, to be drilled, or used for the intended or actual production of natural gas or other hydrocarbons.

**Hospital.** 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.

**Inspector.** The Gas Inspector, Building Official designee or other designee of the City Manager of the City of Arlington that enforces this Chapter.

**Nighttime.** The period between 7:00 p.m. and 6:00 a.m.

**Operation Site.** The area within a well site used for development and production of gas and all operational activities associated with a gas well after drilling and completion activities are finished.

**Operator.** 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, completing, 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 Ordinance, 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 Ordinance, the owner of the fee mineral estate in the premises shall be deemed an Operator.

**Person.** 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.** 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.

**Protected Use.** A residence, religious institution, hospital building, public or private school, day care or public park.

**Public Parks, Playground, or Golf Course.** 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 water courses.

**Public or Private School.** An educational institution, attendance at which satisfies the compulsory education laws of the State of Texas or 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 or private schools.

**Railroad Commission.** The Texas Railroad Commission.

**Re-drill.** 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.** 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.

**Re-working.** 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 casing.

**Right-of-way.** 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 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.

**Salt Water Disposal Well.** A well used for the purpose of injecting produced water back into the ground.

**Seismic Survey.** An exploration method in which low frequency sound waves are generated on the surface to find subsurface rock structures that may contain hydrocarbons. Interpretation of the survey record can reveal possible hydrocarbon-bearing formations.

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

**Tank.** 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.** 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.

## ARTICLE III

### INSPECTOR

#### Section 3.01. Inspector

- A. The City Manager shall designate officials who shall enforce the provisions of this Chapter. The City Manager may retain a Gas Inspector and hereby designates

the Building Official and other City of Arlington Inspectors as needed to enforce this Chapter. Any independent contractor Inspector shall have a degree in petroleum engineering with experience in drilling and production of natural gas or demonstrate a proven background in the drilling, production, and operation of natural gas development, drilling and production. The Inspector 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. Failure of any person to comply with any such order or directive shall constitute a violation of this Ordinance.

- B. The Inspector shall have the authority to enter and inspect any premises covered by the provisions of this Ordinance 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 Inspector shall constitute a violation of this Chapter. The Inspector 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 Inspector shall have the authority to request and receive any records, including any records sent to the Railroad Commission, reports and the like, relating to the status or condition of any permitted gas well necessary to establish and determine compliance with the applicable Gas Well Permit. Failure of any person to provide any such requested material shall be deemed a violation of this Ordinance.
- D. The Inspector shall have the authority to allow as equivalent alternatives to the technical standards of this Ordinance related to public safety and welfare, such as new technology, if the Operator has demonstrated to the Inspector's satisfaction that the alternatives provide equal or greater protection of the environment and the public.

To determine the acceptability of as equivalent technologies, processes, products, facilities, materials and uses as they pertain to gas matters, the Inspector is authorized to require the Operator to provide, without charge to the City, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or specialty organization acceptable to the Inspector. The opinion and report shall analyze the properties of the technology, process, product, facility, material or use and provide a recommendation as to its applicability in the Operator's particular set of circumstances. The Inspector is authorized to require design submittals to be prepared by, and bear the stamp of, a registered design professional.

- E. The Inspector shall have the authority to require the use of soundproofing methods to ensure compliance with the noise restrictions required by this Ordinance.



## ARTICLE IV

### AGENT

#### **Section 4.01 Operator's Agent**

Every Operator of any gas well shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this Ordinance 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.

## ARTICLE V

### GAS WELL PERMITS

#### **Section 5.01 Gas Well Permit Required**

- A. Approved zoning is required before a Gas Well Permit can be obtained from the City.
- B. 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, re-working, completion 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 Ordinance. Activities include, but are not limited to re-working, initial site preparation, drilling, operation, construction of rigs or tank batteries, and fracturing. A permit shall be required for seismic surveys on public property. Written notice must be given to the Inspector no less than ten (10) days before the activities begin.
- C. Operator must apply for and obtain a Gas Well Permit for the drilling, re-drilling, deepening, re-entering, or activating of each well.
- D. A Gas Well Permit shall not constitute authority for the re-entering of an abandoned well. An Operator shall obtain a new Gas Well Permit in accordance with the provisions of this Ordinance if the Operator is re-entering an abandoned well.
- E. When a Gas Well Permit has been issued to the Operator for the drilling, re-drilling, deepening, re-entering, activating or converting of a well, such Gas Well Permit shall constitute sufficient authority for drilling, completion, operation, production gathering or production maintenance, repair, re-working, testing,

plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well, provided, however, that 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. Any person who intends to re-work a permitted well using a drilling rig, or to recomplete or fracture stimulate a permitted well after initial completion or to conduct seismic surveys or other exploration activities, shall give written notice to the Inspector 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 Inspector, 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 Inspector determines that an inspection is necessary, the Operator will pay the City for the inspection.

The following requirements shall apply to all fracture stimulation operations performed on a well within six hundred (600) feet of a protected use: 1) at least 48 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 daytime hours only unless the Inspector approves such operations during nighttime 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.

- G. 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.

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.

- H. The Gas Well Permits required by this Ordinance are in addition to and are not in lieu of any permit which may be required by the Zoning Ordinance or any other provision of this Code or by any other governmental agency.
- I. No Gas Well Permit shall be issued for any well to be drilled within any floodway, as defined in the Flood Hazards Chapter of the Code of the City of Arlington, and as identified by FEMA on the most current FIRM.

- J. A Gas Well Permit shall not be issued for any well to be drilled until the Operator has paid a road damage fee, as established by resolution from time to time by the City Council and the most current resolution is incorporated herein for all purposes. The road damage fee shall be paid by the Operator to the City prior to the commencement of any activity under the Gas Well Permit. The road damage fee is based on the *Road Damage Assessment Study* prepared for the City of Arlington and available in the City Secretary's Office. The road damage fee shall be calculated based on the access lane miles for the appropriate road type, the assessment per lane mile, and the number of lane miles included in each gas well permit application. Replacement costs for asphalt and/or concrete road segments shall be determined from current cost per square yard of road surface material, including installation and labor.
- K. By acceptance of any Gas Well Permit issued pursuant to this Ordinance, the Operator expressly stipulates and agrees to be bound by and comply with the provisions of this Ordinance. The terms of this Ordinance 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 Ordinance was set forth verbatim in such Gas Well Permit.

**Section 5.02 Gas Well Permit Application and Filing Fees**

- A. Every application for a Gas Well Permit issued pursuant to this Ordinance shall be in writing signed by the Operator, or some person duly authorized to sign on his behalf, and filed with the Inspector.
- B. Every application shall be accompanied by a non-refundable permit fee. The permit fee shall be set by resolution of the Arlington City Council and amended from time to time and the most current resolution is incorporated herein for all purposes. The Operator, in addition to the usual application fee, shall pay the City for the actual cost to the City for the services of an inspector and/or technical expert to review the application and/or information supplement. The Operator shall be required to pay an annual administrative fee for each gas well permit. The annual administrative fee shall be set by resolution of the City Council. The fee shall be paid on or before the anniversary date of the issuance of the original gas well permit for that particular well.

Additional services the City incurs for services of an inspector and/or technical expert shall be paid by the Operator at the standard hourly rate plus expenses.

- C. The application shall include the following information:
  - 1. All application fees and other fees required by this Chapter

2. Completed and signed application form containing at least the following information:
  - a. Proof of approved zoning (case number)
  - b. Date of the application
  - c. Proposed well name
  - d. Surface owner names(s) and address(es) of the lease property
  - e. Mineral Lessee name and address
  - f. Applicant/Operator name and address and if the Operator is a corporation, the state of incorporation, address, officer's names and addresses, registered agent and address and Articles of Incorporation; and if the Operator is a partnership, the names and addresses of the general and limited partners. Copies of any "Doing Business As" filings.
  - g. Name and address of individual designated to receive notice
  - h. Name of Operator representative with supervisory authority over all gas operation site activities and a 24-hour phone number
  - i. The name, address and 24-hour phone number of the person to be notified in case of an emergency
  - j. The exact acreage of the drill site and number of wells included in the Gas Well Permit application.
  - k. A notarized statement signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct.
3. The site plan shall include the following information:
  - a. Location and description of all buildings within six hundred (600) feet of the well.
  - b. Map showing proposed transportation routes and roads for equipment, water, chemicals or waste products used or produced by the gas operation. The map shall include a list of the length of all public roads that will be used to access the site. The map shall

also show the location of any areas to be used for truck staging or storage related to the drill site.

- c. A site plan of the proposed drill site and operation site showing the location of all improvements and equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, fire hydrants proposed to supply water to the site, tanks, pipelines, lights, floodways, compressors, separators and storage sheds.
  - d. 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.
4. A description of public utilities required during drilling and operation.
  5. A description of the water source to be used during drilling, an estimate of the total volume of water needed, and the approximate dates the water supply will be needed at the site. If the water source will be the City of Arlington municipal water supply, provide the maximum withdrawal rate in gallons per minute from each point of withdrawal,
  6. 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.
  7. A copy of any Stormwater Pollution Prevention Plan required by the Environmental Protection Agency. A copy of the notice of intent shall be submitted to the City of Arlington, Department of Public Works and Transportation and Environmental Services Department three (3) days prior to the commencement of any onsite activity.
  8. 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.
  9. A copy of the determination by the Texas Commission on Environmental Quality of the depth of useable quality ground water.
  10. The insurance and security requirement documents under this Chapter.

11. An Emergency Action 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. The Plan should include drive-to-maps from public rights-of-way to drill site.
12. A Hazardous Materials Management Plan shall be submitted and be on file with the Fire Department and the Inspector.
13. A copy of the pre-drilling ambient noise level report.

**Section 5.03 Gas Well Permit Review Procedure**

- A. Gas Well Permit shall be required if proposed well is to be located within the City on private or public property.
- B. It is the responsibility of the Inspector to review and approve or disapprove all applications for gas well drilling permits based on the criteria established by this Ordinance. The Inspector, within 30 days after the filing of a completed application and remittance of all fees, insurance and security per the requirements of this Ordinance for a Gas Well Permit, shall determine whether or not the application complies in all respects with the provisions of this Ordinance 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.
- C. The provisions of this Ordinance 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 Inspector.
- D. Within forty-five (45) days of the Inspector's determination that the application complies with all requirements, the Inspector shall place the matter on the City Council agenda for a public hearing 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 forty-five (45) day period shall not begin to run until the Inspector has made a determination that the application complies with all requirements.
- E. 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 Ordinance, the City and the Operator shall notify each surface owner of property, as shown by the current tax roll, within six hundred (600) feet of the proposed well site not owned by or under lease to the Operator and the hearing date and time. Such notice, as outlined below, shall be by depositing the same, properly

addressed and postage paid, in the United States mail. Notice shall be sent to all registered neighborhood associations within one mile of the proposed drill site.

- F. 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 Ordinance, Operator shall publish a copy of the notice as outlined below, at Operator's expense, in one 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 Arlington, Texas, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ filed with the Inspector of the City of Arlington, an application for a Gas Well Permit to drill, complete and operate a well for gas upon property located at \_\_\_\_\_, \_\_\_\_\_ County, Arlington, Texas, more particularly shown on the map of record in Volume \_\_\_\_\_, Page \_\_\_\_\_, Plat records of \_\_\_\_\_ County, Texas or per Tax Tract Number \_\_\_\_\_, \_\_\_\_\_ County, Texas. The City Council will conduct a public hearing on the request for said permit on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_ o'clock \_\_.m. in the City Council Chambers located at 101 West Abram Street, Arlington, Texas.

- G. 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 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 Ordinance.
3. Any sign(s) shall be removed within seven (7) days of final action by the City Council.

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

- I. After a Permit application is submitted, the Inspector shall evaluate the public impact of the proposed activity. The Inspector 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 Inspector deems appropriate. The recommendation shall be submitted to the City Council for consideration prior to the public hearing.

- J. At the public hearing and before the City Council considers the merits of the application and the recommendations of the Inspector, the applicant/Operator shall provide evidence of a certificate of publication establishing timely publication of the notice of the hearing, that timely actual notice of the hearing was given to all persons as required by this Ordinance and that the applicant/Operator has otherwise complied with or satisfied all other requirements of this Ordinance, including full and complete compliance with the insurance and security requirements.
- K. The burden of proof on all matters considered in the hearing shall be upon the applicant/Operator.
- L. 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 accessible access for the City fire personnel and fire fighting 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:
    - a. The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and



- b. The availability of alternative drill sites.
7. The recommendations of the Inspector.
- M. The City Council may require an increase in the distance the well is set back from any protected use or require any change in operation, plan, design, layout or any change in the on-site and technical regulations in Section 7.01 of this Ordinance, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.
  - N. 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.
  - O. The City Council may accept, reject or modify the application in the interest of securing compliance with this Ordinance, the City Code and/or to protect the health, safety and welfare of the community.
  - P. 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 Inspector in writing of his decision.

**Section 5.04 Denial of Gas Well Permit Application**

- A. If the Inspector denies a Gas Well Permit application for reasons other than lack of required distance as set out in this Ordinance 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 Inspector to deny the Gas Well Permit, the Operator may: 1) cure those conditions that caused the denial and resubmit the application to the Inspector for approval; or 2) file an appeal to the City Council under the provisions outlined in this Ordinance pursuant to Section 9.01, Appeals of this Ordinance.
- B. If the Inspector determines that all of the provisions of this Ordinance have been complied with by the Operator but that the proposed drill site does not comply with the distance requirements of this Ordinance under the requested Gas Well Permit, the Inspector shall notify the Operator. The Operator may revise the permit to comply or the Inspector shall notify the official designated by the City Manager and the official shall place the request for a Gas Well Permit under this Ordinance on the City Council agenda for public hearing within the next forty-five (45) days.

**Section 5.05 Amended Gas Well Permits**

- A. An Operator may submit an application to the Inspector to amend an existing Gas Well Permit 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 to otherwise amend the existing Gas Well Permit. Any change to a permit, including a change in Operator, transfer of lease, or the route of pipeline must also go through the amended well permit process. An Operator must submit an application 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.
- B. Applications for amended Gas Well Permits shall be in writing, shall be signed by the Operator, and shall include the following:
1. A non-refundable permit fee as approved by resolution of the Arlington City Council. The Applicant/Operator, in addition to the usual application fee, shall pay the City for the actual cost to the City for the services of an inspector and/or technical expert to review the application and/or information supplement;  
  
Additional services the City incurs for services of an inspector and/or technical expert shall be paid by the Operator at the standard hourly rate plus expenses.
  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 Inspector to demonstrate compliance with the applicable Gas Well Permit; and
  5. Such additional information as is reasonably required by the Inspector to prevent imminent destruction of property or injury to persons.
- C. All applications for amended Gas Well Permits shall be filed with the 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 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.
- D. 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.

- 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 Gas Well Permit, then the Inspector 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 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 Gas Well Permit or that was not otherwise taken into consideration by the existing Gas Well Permit, the Inspector may require the amendment to be processed as a new Gas Well Permit application.
- F. The failure of the Inspector 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.
- G. The decision of the 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.

**Section 5.06 Suspension or Revocation of Gas Well Permit; Effect**

- A. Operator shall comply at all times with all applicable federal, state and City laws, regulations and rules. If an Operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a Gas Well Permit, the Operator is subject to immediate citation, injunction, abatement or any other remedy permitted by law. When possible under the circumstance, the Inspector or other designated City of Arlington employee or representative 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.
- B. If the Operator fails to comply within ten days after notice, or fails to comply immediately if there is an imminent health and safety issue as determined by the sole discretion of the Inspector or other designated City of Arlington representative, the Inspector may suspend or revoke the Gas Well Permit pursuant to the provisions of this Ordinance.
- C. No person shall carry on any operations performed under the terms of the Gas Well Permit issued under this Ordinance 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 Ordinance or immediately if there is an imminent health or safety condition, the Inspector may notify the Railroad Commission and request that the Railroad Commission take any appropriate action.
- E. Operator may file an appeal in writing directed to the City Council within thirty (30) days of the date of the decision of the Inspector in writing to suspend or revoke a Gas Well Permit.
- F. If an application for a Gas Well Permit is denied by the Inspector, nothing herein contained shall prevent a new permit application from being submitted to the Inspector for the same well.

#### **Section 5.07 Periodic Reports**

- A. The Operator shall notify the Inspector of any changes to the following information within one 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; 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 Inspector 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 business day.
- C. The Operator shall provide a copy of any incident reports or written complaints submitted to the Railroad Commission within 30 days after the Operator has notice of the existence of such reports or complaints.
- D. Beginning on the first anniversary date of each well after it is permitted by the City, the Operator shall provide an operational status report for every well permitted to the Operator within the City. The report shall include the Well Name, API Number, Lease Name, City Case Number, Commission Permit

Number, Commission Lease ID Number and Current Status whether pending, drilling, completing, producing, plugged or abandoned.

## ARTICLE VI

### INSURANCE, BOND AND INDEMNITY

#### Section 6.01 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. Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the Gas Well Permit.
4. Promptly restore to its former condition any roadway, right-of-way, or other public property damaged by the gas operation.

##### 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 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 is restored, whichever occurs last. 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 Ordinance and other applicable City ordinances. 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 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. If the Letter of Credit is for a time period less than the life of the well as required by this Ordinance, the Operator must agree to either renew the Letter of Credit or replace the Letter of Credit with a bond in the amount required by this Ordinance, 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 of Arlington 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 of Arlington may draw the entire face amount of the Letter of Credit to be held by the City of Arlington as security for Operator's performance of its obligations under this Ordinance.

The City shall be authorized to draw upon such Letter of Credit or bond to recover any fines, penalties, defaults or violations assessed under this Chapter. Also, the Letter of Credit may be used to draw down City road damage expense to the extent road damage cost exceeds the road damage fee paid with the permit application. 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 the bond or letter of credit shall be Fifty Thousand (\$50,000) dollars for any single well. If, after completion of a well, the applicant/Operator, who initially posted a Fifty Thousand (\$50,000) dollars bond, has complied with all of the provisions of this Ordinance and whose well in the producing stage and all drilling operations have ceased. Such operator may submit a request to the Inspector to reduce the existing bond to Ten Thousand (\$10,000) dollars 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 (\$50,000) dollars.

If at any time after no less than a fifteen (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 and Fifty Thousand (\$250,000) dollars 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 unless immediate compliance is needed due to a serious health or safety condition. 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 any 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 Ordinance.

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 Ordinance.

- 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 or any other remedy available by law.
- 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 Ordinance, 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.

## **Insurance**

In addition to the bond or letter of credit required pursuant to this Ordinance, 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 on all applicable policies. A copy of the endorsement is required for evidence of coverage.
  - b. All policies shall be endorsed with a waiver of subrogation in favor of the City. A copy of the endorsement is required for evidence of coverage.
  - c. All policies shall be written on an occurrence basis where commercially available.
  - d. If coverage is written on a claims made basis, the Operator must maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the Gas Well Permit. The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.
  - e. All policies shall be written by an insurer with an A-: VII 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.
  - f. Deductibles shall be listed on the Certificate of Insurance and shall be on a per occurrence basis unless otherwise stipulated herein.



- g. Certificates of Insurance shall be delivered to the City of Arlington, Community Development and Planning Department, 101 West Abram Street, Arlington, Texas 76010, and to Risk Management, 101 West Abram Street, Arlington, Texas 76010 evidencing all the required coverages, including endorsements, prior to the issuance of a Gas Well Permit.
- h. Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
- i. Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.
- j. During the term of the Gas Well Permit, the Operator shall report, in a timely manner, to the Inspector any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- k. Upon request, certified copies of all insurance policies shall be furnished to the City.
- l. Irrespective of the requirements as to insurance to be carried, the insolvency, bankruptcy or failure of any insurance company to pay claims accruing shall not be held to waive any of the provisions of this Article.
- m. Operator shall pay promptly all premiums for such insurance in strict accordance with its obligations to its carrier and maintain the required coverage in full effect so long as the permit is valid.
- n. Failure to keep such policies in full force and effect, in accordance with the terms hereof, shall be unlawful.

2. Commercial General Liability Policy

This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution (with discovery and reporting periods of not less than fifteen (15) days and thirty (30) days respectively), blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum of One Million (\$1,000,000) dollars per occurrence.

3. Excess or Umbrella Liability

Insurance limits in a minimum of Ten Million Dollars (\$10,000,000). Coverage is to be at least as broad as, applies of and follows form of the primary liability coverage required for commercial general liability, auto liability and employer's liability. 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 Five Million (\$5,000,000) dollars per loss.
- 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.
- c. The Operator shall maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the Gas Well Permit.

The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.

5. Control of Well Coverage

The policy should 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) per occurrence. A Five Hundred Thousand Dollar (\$500,000) 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 (\$500,000) dollars 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 (\$1,000,000) dollars combined single limit per occurrence.
  - b. Coverage must include all owned, hired and not-owned automobiles.
  - c. The City shall be named as an additional insured on the policy and provided with a waiver of subrogation.
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 set forth by the insurance company 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 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.
  - e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

**D. Indemnification and Express Negligence Provisions**

- 1. EACH GAS WELL PERMIT ISSUED BY THE INSPECTOR 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 ARLINGTON, 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 ARLINGTON, TEXAS, 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 ARLINGTON, 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 ARLINGTON, 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 ARLINGTON 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 ARLINGTON 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 ARLINGTON, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF ARLINGTON, 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.

E. **Notice**

The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this Ordinance may be served in person or by registered or certified mail. Every Operator shall within ten (10) days notify the Inspector in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

## ARTICLE VII

### ON SITE AND TECHNICAL REGULATIONS

#### Section 7.01 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 buildings 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

operations as required by and in conformance with the requirements of the Railroad Commission and the recommendations of the American Petroleum Institute.

3. **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 private or public property in the City.
4. **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.
5. **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. Watering, wetting or other methods or materials must be used to control dust adjacent to residential property.
6. **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.
7. **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.
8. **Emergency Response Plan.** Prior to the commencement of any gas or other hydrocarbons production activities, Operator shall submit to the

Inspector 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 and City Fire Code. A copy of the Emergency Response Plan shall be kept on site.

9. **Equipment painted.** 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 Inspector 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.
10. **Explosives.** The use of explosive charges on any well site shall require an explosives permit from the Fire Marshal, as required by the Fire Code of the City. Use of explosive charges within the City limits shall require approval by the Fire Marshal.
11. **Fire notice.** In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the Operator shall immediately report such condition to the Fire Department.
12. **Fire prevention; sources of ignition.** Firefighting apparatus and supplies as approved by the Fire Department 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 drill 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 well heads shall contain an emergency shut off valve to the well production sale line.
13. **Fracture Stimulation Earthen Pit.** Lined earthen pits may be used for the purpose of storing fresh water for fracture stimulation operations. Such pits and contents shall be removed from the premises and the drilling site within sixty (60) days after completion of the well. The Operator shall provide temporary fencing around pits. If an Operator who maintains a tank or pit does not take protective measures necessary to prevent harm to birds, the operator may incur liability under federal and state wildlife protection laws. Federal statutes, such as the Migratory Bird Treaty Act, provide substantial penalties for the death of certain species of birds due to

contact with oil in a tank or pit. These penalties may include imprisonment. State statutes also protect certain species of birds. An Operator must screen, net, cover, or otherwise render harmless to birds all open-top storage tanks that are eight feet or greater in diameter and contain a continuous or frequent surface film or accumulation of oil. However, temporary, portable storage tanks that are used to hold fluids during drilling operations, workovers, or well tests are exempt.

14. **Fracture Stimulation (Fracing) Operations.** All formation fracture stimulation operations shall be conducted during daytime hours unless the Operator has notified and obtained permission from the City for operations during nighttime hours. 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.
15. **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 drill site and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.
16. **Gas lift compressor.** Any onsite compressor used to 'lift gas' shall be designed to comply with the noise requirements of this Ordinance.
17. **Gas processing onsite.** Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises unless approved as part of the Gas Well Permit.
18. **Grass, weeds, trash.** 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.
19. **Hazardous Plan.** A Hazardous Materials Management Plan shall be on file with the Fire Department and the Inspector.
20. **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 three hundred (300) feet.

Include location of lights on well permit site plan.

21. **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.
22. **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, gravel or caliche. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the Inspector and the Director of Public Works and Transportation 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 operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind. Watering, wetting or other methods or materials must be used to control dust adjacent to residential property.
23. **Salt Water Wells.** No salt water disposal wells shall be located within the City of Arlington.
24. **Signs.**
  - a. A sign shall be immediately and prominently displayed at the gate on the fencing erected pursuant to Section 7.01.C.2 of this Ordinance. 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.

<p><b>Well Name/Number</b>          Name of Operator          Operator 24-hour emergency          number          EMERGENCY – DIAL 911</p>
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- b. Permanent weatherproof signs reading DANGER NO SMOKING OR OPEN FLAME ALLOWED, PELIGRO NO FUMAR O INICIAR LLAMA EN ESTA AREA 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 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. A label must be located on each tank indicating exact chemicals that may be contained in the tank. Text shall be minimum six (6) inches in height, contrasting with the background color. 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 except as required by the Railroad Commission.

<p><b>DANGER!</b>  <b>NO SMOKING OR OPEN          FLAME ALLOWED</b></p> <p><b>¡PELIGRO!</b>  <b>NO FUMAR O INICIAR          LLAMA EN ESTA AREA</b></p>
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<p><b>DANGER!</b>  <b>NO SMOKING OR OPEN          FLAME ALLOWED</b></p> <p><b>¡PELIGRO!</b>  <b>NO FUMAR O INICIAR          LLAMA EN ESTA AREA</b></p>
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25. **Storage of equipment.** On-site storage or equipment is prohibited on the drilling or production operation site. 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 Department shall be the entity that determines whether equipment on the site shall constitute a fire hazard.

26. **Storage Tanks.** 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. 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 (1½) 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 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 aboveground facilities, other than the well head and flow lines, shall be placed in a floodway or the 100-year floodplain.

27. **Tank Battery Facilities.** Tank battery facilities shall be equipped with a lightning arrestor system.
28. **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 the valve in an emergency.
29. **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 (A.P.I.) standards. All tanks must have a vent line, flame arrester and pressure relief valve. No tank battery shall be within one hundred (100) feet of any dwelling or other combustible structure.

- b. This setback distance may be reduced by the City Council to not less than three hundred (300) feet only when there is the written consent of sixty (60) percent of the surface property owners within a radius between three hundred (300) feet and six hundred (600) feet around said well or upon the affirmative vote of not less than a super-majority of seven (7) members of the City Council. In the event such approval or consent is not obtained, and upon providing evidence of an attempt to obtain consent of sixty (60) percent of the surface property owners, then the distance may be reduced upon an affirmative vote of a super-majority of seven (7) 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, and take into account the presence of natural or man-made barriers.

2. Internal Setbacks.

- a. Within twenty-five (25) feet from any outer boundary line of the drill well site; or
- b. Within twenty-five (25) feet from any storage tank, or source of ignition; or
- c. Within seventy-five (75) feet of any public street, road, highway or future street, right-of-way or property line; or
- d. Within one hundred (100) feet of any building accessory to, but not necessary to the operation of the well; or
- e. 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 reduction of the distance requirement for fresh water wells is subject to the Railroad Commission regulations and any other state or federal requirements.
- f. Tank batteries, well facilities and equipment shall be located at least one hundred (100) feet from an existing protected use or a protected use for which a building permit has been issued on the date of 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.

Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into above-ground tanks (closed loop mud system). 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 Ordinance and any other applicable ordinance of the City.

30. **Watchman.** The Operator must keep a watchman or security personnel on site during the drilling or re-working of a well when other workmen are not on the premises.
  31. **Wellhead Status after Fracing.** All wellheads waiting on completion, for a period greater than 10 days, shall be:
    - a. Completed through the production casing flange with a metal plate or blind flange bolted across the head;
    - b. Surrounded with a six (6) feet tall chain link fence having a gate and lock;
    - c. The cellar shall be filled or closed;
    - d. The Bradenhead shall be piped to the surface and open to the atmosphere or have an observable and adequate pressure gauge with operable test valve.
- B. **Well setbacks.** It shall also be unlawful to drill any well, the center of which, at the surface of the ground, is located:
1. **External Setbacks.**
    - a. Within six hundred (600) feet from a park or within six hundred (600) feet from a protected use for which a building permit has been issued on or before the date of the application for a drilling permit. The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the primary structure of the protected use or park boundary.

C. **Fences, Walls, Screening**

1. **Fences/Walls.** Fences shall not be required on drill sites during initial drilling, completion or re-working operations as long as 24-hour on-site supervision is provided. A secured entrance gate containing a Knox-Box keybox or pad lock or equivalent 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 completion of the final well, all operation sites shall be completely enclosed by a solid masonry wall and vegetation. An alternative fence with vegetation may be approved by the City Council as a condition of the gas well permit. Masonry wall specifications shall be as follows:
  - a. The wall shall be of a design compatible with the facilities, buildings and structures on and adjacent to the site;
  - b. The wall shall be at least eight (8) feet in height.
  - c. All open pits must be fenced on all four sides once the well is producing or when the site becomes unmanned.
  - d. No trespassing signs are required on the fence on all four sides of the drill site.
2. **Gate specifications.** All masonry walls shall be equipped with at least one (1) gate. The gate shall meet the following specifications:
  - a. 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.
  - b. 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
  - c. Operator must provide the Fire Department with a Knox Padlock or Knox Box entry system or equivalent on the gate to access the well site in case of an emergency.

D. **Landscaping**

1. Landscaping and irrigation shall be provided as identified in the approved zoning and/or specific use permit.

2. It shall be the responsibility of the Operator to comply with the City's landscaping ordinance including tree preservation/mitigation and maintenance.
3. Landscaping must blend with the environment and existing surrounding area.
4. Landscaping must be installed within thirty (30) days from the completion of the permitted gas well.

**E. Vehicle Routes for Gas Well Permit**

1. Vehicles in excess of three (3) tons associated with drilling and/or production 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. The vehicles 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.
2. The City Council may restrict the hours of operation of vehicles associated with drilling and/or production when the proposed vehicle route passes through a designated school zone. The Department of Public Works and Transportation shall review the vehicle routes to determine if a proposed route includes a designated school zone.

**F. Work Hours for Gas Well Permit**

Site preparation, well servicing, truck deliveries of equipment and materials, and other related work conducted on the well site shall be limited to between the hours of 6 a.m. to 7 p.m. The restriction on work hours shall not apply 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. Drilling operations may take place on a 24-hour basis.

**G. Noise Restrictions for Gas Well Permit**

1. No well shall be drilled, redrilled or any equipment operated so as to create any noise which causes the exterior noise level, when measured at the well setback required by this Ordinance, to exceed the ambient noise level by more than five (5) decibels during daytime hours and more than three (3) decibels during nighttime hours. Fracture stimulation (fracing) operations shall not exceed the ambient noise level by more than seven (7)

decibels. Backflow operations shall not exceed the ambient noise level by more than five (5) decibels during nighttime hours. Production operations shall not exceed the established pre-drilling ambient noise level.

2. The Operator shall be responsible for establishing and reporting to the City the pre-drilling ambient noise level prior to the issuance of a gas well permit. Once the drilling is complete, the Operator shall be required to establish a new ambient noise level prior to the installation of any new noise generation equipment.
3. The exterior noise level generated by the drilling, re-drilling or other operations of all gas wells located within six hundred (600) feet of a protected use shall be continuously monitored to ensure compliance. The cost of such monitoring shall be borne by the Operator.
4. Acoustical blankets, sound walls, mufflers or other alternative methods may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and subject to approval by the Inspector.
5. The sound level meter used in conducting noise evaluations shall meet the American National Standards Institute's standard for sound meters.

#### **H. 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.

#### **I. Closed Loop Mud Systems.**

A Closed Loop Mud System shall be used in conjunction with all drilling and reworking operations for all Gas Well Permits, unless specifically waived by the City Council.

#### **J. Natural Gas Compressor Stations**

1. Approved zoning is required before a permit for a natural gas compressor station can be obtained from the City.
2. All compressor station equipment, at the issuance of the initial certificate of occupancy, shall be set back a minimum of six hundred (600) feet from a park or from a protected use, or a minimum of three hundred (300) feet



from all other uses, for which a building permit has been issued on or before the date of the application for a drilling permit. The distance shall be calculated from the primary structure of the compressor station equipment to the primary structure of the protected use or other use or park boundary. This setback may be reduced by the City Council if written consent of sixty (60) percent of the surface property owners is obtained. In the event such approval or consent is not obtained, and upon providing evidence of an attempt to obtain consent of sixty (60) percent of the surface property owners, then the distance may be reduced upon an affirmative vote of a super-majority of seven (7) members of the City Council.

3. The boundary of the compressor station site shall be enclosed by a security fence that is a minimum of eight (8) feet in height.
4. All compressor station equipment shall be enclosed within a building. All buildings shall have exterior walls constructed of masonry, as defined in Article II of the Zoning Ordinance.
5. The operation of the equipment shall not create any noise which causes the exterior noise level to exceed the pre-development ambient noise levels, as measured at the six hundred (600) foot setback. The Operator shall be responsible for establishing and reporting to the City the pre-development ambient noise level prior to the issuance of the compressor station permit.
6. The compressor station site shall be landscaped as follows:
  - a. Landscaping and irrigation shall be provided as identified in the approved zoning and/or specific use permit.
  - b. It shall be the responsibility of the Operator to comply with the City's landscaping ordinance including tree preservation/mitigation and maintenance.
  - c. Landscaping must blend with the environment and existing surrounding area.
  - d. Landscaping must be installed within thirty (30) days from the completion of the permitted compressor station.
7. The Inspector shall inspect the compressor station site on an annual basis to determine compliance with the provisions of this Ordinance.

**K. Saltwater Disposal Lines.**

1. Engineered construction drawings for all saltwater disposal lines, including but not limited to gas drilling flowback water, shall be submitted

to the City of Arlington Water Utilities department for review. The drawings shall be sealed by a professional engineer licensed to practice in the state of Texas. The drawings shall include the surveyed alignment for the saltwater disposal lines and the limits of any easements.

2. Salt water disposal lines shall be prohibited within one hundred (100) feet of the flowage easement lands around Lake Arlington. Flowage easement lands are defined as those lands below the elevation contour of 560.0 feet above mean sea level. Salt water disposal lines shall also be prohibited under Lake Arlington.
3. City of Arlington water utility standards must be used in the design. The plans must be approved by the City prior to construction and will be subject to inspection by the City. All applicable plan review and inspection fees shall be paid to the City of Arlington.

**L. Installation of pipelines on, under or across public property.**

The Operator shall apply to the City for a franchise or other Arlington 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 Ordinance. 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 Community Development and Planning a plat showing the location of such pipelines.
3. Construct such lines out of pipe in accordance with the City codes and regulations properly cased and vented if under a street;
4. Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed when operations for the drilling of the well were first commenced.
5. Comply with all City ordinances.

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 shown by the current comprehensive plan of the City, 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 Inspector. Any consent from the

Inspector 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.

M. **Required Inspections.** The following inspections are required:

1. **Surface Casing.** The Operator's agent shall notify the Inspector in writing (email, fax, or U.S. Postal mail) at least seventy two (72) hours prior to running and cementing surface casing. The procedures to be followed in this operation shall be as provided in Cementing, Rule No. 13 of the Railroad Commission. In addition, the following shall be required:
  - a. Centralizers (1 per 100 ft. or 10 per 1000 ft.)
  - b. New surface casing
  - c. Adequate or proper floating equipment
  - d. Class H of Class C cement with accelerators
  - e. Example: Class C with 3 percent CaCl<sub>2</sub>
  - f. Cement circulated to surface. If not, cement with 1 tubing & top off
  - g. Wait on cement a minimum of 8 to 12 hrs
  - h. Test Blowout Preventor before drilling out of surface casing to 1000 psi
2. **Completion.** The Operator's agent shall notify Inspector in writing at least 72 hours prior to starting completion procedures such as perforating and fracing. The well must be equipped with a Blowout Preventor before this operation is commenced. Also, if a bridge plug is set over a producing formation prior to additional completion, it must be pressure tested to a sufficient pressure to ensure that it is not leaking.
3. **Pipeline hookup.** The Operator's agent shall notify the Inspector in writing at least seventy two (72) hours prior to the first sale. The tank battery shall be equipped with a lightning arrestor.
4. **Final Acceptance.** Within thirty (30) days of the start of production of a well, or of the operation of a pipeline, the Inspector will inspect and accept or reject the well site or pipeline installation site clean-up and permanent provisions for security and screening of the well site. The Inspector will provide the Operator written notification of acceptance within ten (10) working days. If the clean-up or proposed provisions for security and screening are rejected by the Town, the Operator will be notified of the

rejection and the reasons for the rejection in writing within ten (10) working days. The Operator must take action to nullify and correct the reasons for rejection within thirty (30) calendar days from the notification.

**N. Operations and Equipment; Practices, Standards, and Appearance**

1. All drilling and pipeline operations shall be conducted in accordance with the practices of a reasonable and prudent operation in the State of Texas. All material, equipment, and testing used shall be of a quality and type consistent with such practice.
2. Each Operator shall not contaminate the ground water by the drilling, pipeline installation or production activities. All rules of the Federal Government, the State of Texas, and the City regarding protecting natural resources must be strictly followed.
3. Drilling and pipeline production operations shall be conducted in such a manner as to minimize noise, vibration, dust, odors, or other nuisances. Internal combustion engines used on the well or pipeline site must be fitted with exhaust mufflers. For production purposes, only electrically or natural gas powered compressors or motors may be used.
4. No refining of any kind, except for gas dehydrating and physical phase separation, shall take place at the well site.
5. The well site shall not be allowed to become dilapidated, unsightly, or unsafe.
6. The well or pipeline site shall not be used to store pipe, drilling equipment or materials after the drilling or pipeline installation operation has ceased.
7. No refining plant or main line compression station or cooling plant shall be allowed in the City at any time.
8. Flaring or burning of gas or petroleum of any kind after the well is in production is prohibited. Temporary flaring or burning to accommodate public safety may be performed but only when approved by the Inspector.

**Section 7.02 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 property damage caused by such operations to be completed within sixty (60) days.

- B. **Clean-up 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 City Fire Chief and the Inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. If the Operator fails to begin site clean-up within twenty-four (24) hours, the Gas Inspector may contract for or otherwise employ any clean-up experts by contract or otherwise at the sole expense of Operator. Operator expressly consents by applying for a permit to allow a draw down of any bond or letter of credit to cover any clean up expenses. In the event that the bond or letter of credit is exhausted, Operator agrees to immediately replenish the amount. 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 Inspector 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 Ordinance and shall notify the Inspector as soon as practicable. The Inspector shall certify in writing, briefly describing the same, to the official designated by the City Manager. If the Inspector, 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 Inspector 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 Inspector 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 Inspector in gaining control of said well.

### **Section 7.03 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 Ordinance.
- B. Abandonment shall be approved by the Inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the Inspector:
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 Ordinance.
- C. **Abandoned well requirement.** The Operator shall furnish the following at the discretion of the Inspector:
1. A copy of the W-3A 'Notice of Intention to Plug & Abandon' and W-3 'Plugging Record' forms on the same date these forms are submitted to the Commission; and
  2. A prior forty-eight (48) hour 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.
  3. All wells shall be abandoned in accordance with the rules of the Railroad Commission; however, all well casings and cellars shall be cut and removed to a depth of at least three (3) feet below the surface. A permanent abandonment marker pipe, with the well identity and location

permanently inscribed, shall be welded to the casing and shall be at least four (4) inches in diameter with a length of four (4) feet visible above the ground level.

- 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.

## ARTICLE VIII

### TECHNICAL ADVISOR

#### Section 8.01 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 Ordinance, 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 Ordinance. 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.

## ARTICLE IX

### APPEALS

#### Section 9.01 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 as provided by this Ordinance. Any person or entity whose application is denied by the Inspector (other than for distance requirements set out in this Ordinance) 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 Inspector, 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 resolution of the Arlington City Council.

## **ARTICLE X**

### **PENALTY**

#### **Section 10.01 Penalty**

- A. 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 Ordinance.
  2. Fail to comply with any condition set forth in a Gas Well Permit issued under this Ordinance; or.
  3. Violate any provision or requirement set forth under this Ordinance.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.



All ordinances and provisions of ordinances of the City of Arlington, Texas, that are in conflict with this Ordinance shall be, and are hereby repealed, and all ordinances and provisions of ordinances not so repealed are hereby retained in full force and effect.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7

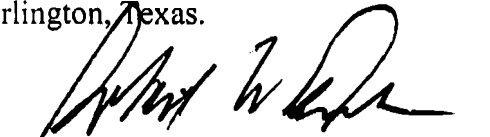
The caption and penalty of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication.

PRESENTED AND GIVEN FIRST READING on the 9<sup>th</sup> day of October, 2007, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 23<sup>rd</sup>

day of October, 2007, by a vote of 6 ayes and 2 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
\_\_\_\_\_  
ROBERT N. CLUCK, Mayor

ATTEST  
  
  
\_\_\_\_\_  
KAREN BARBER, Acting City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY  \_\_\_\_\_

**Ordinance No. 08-088**

**An ordinance amending the "Gas Drilling and Production" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article V, Gas Well Permits, Section 5.02, Gas Well Permit Application and Filing Fees, Subsection (B), related to applications for and annual administration of gas well permits, and Section 5.03, Gas Well Permit Review Procedure, Subsection (G), related to notification signs prior to public hearings on gas well permit applications; providing for a fine of up to \$2,000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability, governmental immunity, injunctions, publication and an effective date**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "**Gas Drilling and Production**" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article V, Gas Well Permits, Section 5.02, Gas Well Permit Application and Filing Fees, Subsection (B)**, so that hereafter that Subsection shall be and read as follows:

- B. Every application shall be accompanied by a non-refundable permit fee. The permit fee shall be set by resolution of the Arlington City Council and amended from time to time and the most current resolution is incorporated herein for all purposes. The Operator, in addition to the usual application fee, shall pay the City an inspector fee in an amount set by resolution of the Arlington City Council for the services of an inspector and/or technical expert to review the application and/or information supplement, and for the services of staff personnel to perform ongoing inspection and ensure the Operator's compliance with this Chapter. The Operator shall be required to pay an annual administrative fee for each gas well permit. The annual administrative fee shall be set by resolution of the City Council. The fee shall be paid on or before the anniversary date of the issuance of the original gas well permit for that particular well. Additional services the City incurs for services of an inspector and/or technical expert shall be paid by the Operator at the standard hourly rate plus expenses.

Further, Article V is hereby amended through the amendment of **Section 5.03, Gas Well Permit Review Procedure, Subsection (G)**, so that hereafter that Subsection shall be and read as follows:

- G. 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 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 Ordinance.
3. Any sign(s) shall be removed within seven (7) days of final action by the City Council.
4. City personnel will install the required sign upon request of the Operator and after Operator's payment of a sign installation fee in an amount set by resolution of the Arlington City Council.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand (\$2000) dollars for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member

(2)

of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective upon second publication.


PRESENTED AND GIVEN FIRST READING on the 16th day of September, 2008, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 30th day of September, 2008, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
ROBERT N. CLUCK, Mayor

ATTEST:

  
KAREN BARLAR, City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY 

(3)

**Ordinance No. 10-012**

**An ordinance amending the "Gas Drilling and Production" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article V, Gas Well Permits, Section 5.02, Gas Well Permit Application and Filing Fees, by the addition of Subsection (D); through the amendment of Article VI, Insurance, Bond and Indemnity, Section 6.01, Bond, Letters of Credit, Indemnity, Insurance, by the addition of Subsection (F); through the amendment of Article VII, On Site and Technical Regulations, Section 7.01, Technical Regulations, by the amendment of Subsections (A)(8) and (A)(19), the addition of Subsection (K)(4), and the amendment of Subsection (L)(2); relative to a requirement that final plans or other documents that will be archived must be submitted in electronic format; through the amendment of Article X, Penalty, Section 10.01, Penalty, relative to updated penalty provisions; providing for a fine of up to \$2,000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability, governmental immunity, injunctions, publication and an effective date**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "**Gas Drilling and Production**" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article V, Gas Well Permits, Section 5.02, Gas Well Permit Application and Filing Fees, by the addition of **Subsection (D)**, so that hereafter said Subsection shall be and read as follows:

- D. Final plans or other documents that will be archived must be submitted in an electronic format specified by the Director of Community Development and Planning ("CDP Director") as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The CDP Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

Further, Article VI, **Insurance, Bond and Indemnity**, is hereby amended by the amendment of **Section 6.01, Bond, Letters of Credit, Indemnity, Insurance**, by the addition of **Subsection (F)**, so that hereafter said Subsection shall be and read as follows:

**F. Electronic Submittal of Final Plans and Other Documents**

Final plans or other documents required to be submitted under this Chapter and that will be archived must be submitted in an electronic format specified by the Director of Community Development and Planning ("CDP Director") as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The CDP Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

Further, Article VII, **On Site and Technical Regulations**, is hereby amended by the amendment of **Section 7.01, Technical Regulations, Subsection (A)(8)**, so that hereafter said Subsection shall be and read as follows:

8. **Emergency Response Plan.** Prior to the commencement of any gas or other hydrocarbons production activities, Operator shall submit to the Inspector 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 and City Fire Code. A copy of the Emergency Response Plan shall be kept on site. Final plans or other documents that will be archived must be submitted in an electronic format specified by the Director of Community Development and Planning ("CDP Director") as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The CDP Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

Further, Article VII is hereby amended by the amendment of **Section 7.01, Subsection (A)(19)**, so that hereafter said Subsection shall be and read as follows:

19. **Hazardous Plan.** A Hazardous Materials Management Plan shall be on file with the Fire Department and the Inspector. Final plans or other

documents that will be archived must be submitted in an electronic format specified by the Director of Community Development and Planning ("CDP Director") as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The CDP Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

Further, Article VII is hereby amended by the amendment of **Section 7.01, Subsection (K)**, by the addition of Subsection (4), so that hereafter said Subsection shall be and read as follows:

4. Final plans or other documents that will be archived must be submitted in an electronic format specified by the Director of Community Development and Planning ("CDP Director") as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The CDP Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

Further, Article VII is hereby amended by the amendment of **Section 7.01, Subsection (L)(2)**, so that hereafter said Subsection shall be and read as follows:

2. Furnish to the Director of Community Development and Planning a plat showing the location of such pipelines. Final plans or other documents that will be archived must be submitted in an electronic format specified by the Director of Community Development and Planning ("CDP Director") as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The CDP Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

Further, **Article X, Penalty**, is hereby amended by the amendment of **Section 10.01, Penalty**, so that hereafter said section shall be and read as follows:



**Section 10.01 Penalty**

- A. 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; or
  2. Fail to comply with any condition set forth in a Gas Well Permit issued under this Chapter.
- B. A person who violates any provision of this Chapter by performing an act prohibited or by failing to perform an act required is guilty of a misdemeanor; each day the violation continues shall be a separate offense.
1. If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required. Such offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents (\$500.00). Although not required, if a culpable mental state is in fact alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).
  2. If the definition of an offense under this Chapter prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2000) dollars for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

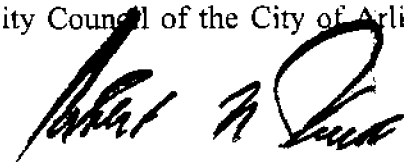
7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective upon second publication.

PRESENTED AND GIVEN FIRST READING on the 15th day of December, 2009, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 12th day of January, 2010, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



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ROBERT N. CLUCK, Mayor

ATTEST



KAREN B. [unclear] City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY Kathy Zibelech

**Ordinance No. 11-068**

**An ordinance of the City of Arlington, Texas, amending the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Articles I-X; providing for a fine of up to \$2,000 for each violation; providing for repeal of conflicting ordinances, severability, governmental immunity, injunctions, publication and becoming effective ten days after first publication**

WHEREAS, there has been increased interest in gas drilling and production within the City of Arlington; and

WHEREAS, the City of Arlington currently requires appropriate zoning for gas drilling and production; and

WHEREAS, on November 25, 2003, the City Council adopted the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas regarding permitting and regulation for the drilling and production of gas within the city limits on private property and to protect the health, safety and welfare of its citizens; and

WHEREAS, on December 20, 2005; October 23, 2007; September 30, 2008; and January 12, 2010, the City Council adopted revisions to the Gas Drilling and Production Chapter of the Code of the City of Arlington, Texas; and

WHEREAS, it is advisable to amend the current regulations for the drilling, production, and re-drilling of gas and other hydrocarbons within the city limits on private and public property so that these activities may be conducted in a manner that protects the public health, safety, and welfare of the citizens of Arlington, and also conforms with established codes and regulations while minimizing any adverse impact to the Public; and

WHEREAS, the City Council deems it necessary to revise the Gas Drilling and Production Chapter to further protect the health, safety, and welfare of the citizens of the City of Arlington; now therefore

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:**

1.

That the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended so that hereafter said Chapter shall be and read as follows:

## ARTICLE I

### GENERAL PROVISIONS

#### **Section 1.01 Short Title**

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

#### **Section 1.02 Purpose**

The exploration, development, and production of gas in the City is an activity that 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 that the purpose of this Ordinance is to establish reasonable and uniform limitations, safeguards, and regulations for present and future operations on private and public property that will serve as minimum standards for 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 and public property and mineral rights owners; protect the quality of the environment; and encourage the orderly production of available mineral resources.

This Chapter will be considered minimum standards for private and public property. The City Council may approve permits, leases, and other documents pertaining to private and public property that contain provisions that modify the minimum standards in this Chapter to further protect the public health, safety, and general welfare of the public.

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

## ARTICLE II

### DEFINITIONS

#### **Section 2.01 Definitions**

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

**Abandonment.** “Plugging” as defined by the RRC and includes the plugging of the well, abandoned or otherwise, and the restoration of any drill site(s) as required by this Ordinance.

**Ambient noise level.** The all encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

**API.** American Petroleum Institute.

**Building.** Any structure. The structure may serve for the support, shelter, or enclosure or partial enclosure of persons, animals, chattels, or movable property of any kind including pools.

**Building Official.** The officer or other designated authority charged with administration and enforcement of this Chapter, or the Building Official’s duly authorized representative.

**CD&P.** Community Development and Planning Department.

**Church.** 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.** The City of Arlington.

**City Code.** The Code of the City.

**City Attorney.** The City Attorney of the City.

**City Manager.** The City Manager of the City or his/her designee.

**Closed Loop Mud System.** A series of above-ground tanks used to store, process, and recycle drilling mud, cuttings, and other fluids. This system is used in place of the traditional earthen pits at a drilling operation.

**Completion.** The process or stage of finishing a well so that it is ready to produce natural gas.

**Daytime.** The period from 7:00 a.m. to 6:00 p.m. Central Standard Time and 7 a.m. to 8 p.m. Central Daylight Saving Time.

**Decibel (dB).** A unit of measurement of noise intensity. The measurements are based on the energy of the sound waves, and the units are logarithmic.

***Drilling.*** 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.*** 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.*** The premises used during the drilling, completion, or re-working of a well or wells located there or any associated operation.

***Drilling Zone.*** The area contained within the smallest single circle or polygon that encloses the outside dimensions of all the wells on the drill site.

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

***EPA.*** Environmental Protection Agency.

***FEMA.*** Federal Emergency Management Agency.

***Fire Chief.*** The Chief of the Fire Department of the City.

***Fire Department.*** The Fire Department of the City.

***Fire Code.*** The International Fire Code as amended by the City of Arlington Fire Chapter to the extent not in direct conflict with current or future federal and state law or regulations including the Texas Railroad Commission, Texas Commission on Environmental Quality or successor entities.

***Fire Inspector.*** A Fire Prevention and Life Safety Inspector of the Fire Department, or other designee of the Fire Chief that enforces this Chapter or the Fire Code.

***FIRM.*** Flood Insurance Rate Map.

***Flowback.*** The process of allowing fluids to flow from the well following a treatment, either in preparation for a subsequent phase of treatment or in preparation for cleanup and returning the well to production.

***Fracture Stimulate (Frac).*** To inject water, steam, gas, or other substances into a well to improve hydrocarbon recovery.

***Gas.*** 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 or well.*** Any well drilled, to be drilled, or used for the intended or actual production of natural gas or other hydrocarbons.

**Hospital.** 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.

**Inspector.** The Gas Well Inspector, Building Official designee, Gas Well Coordinator, Fire Chief designee, or other designee of the City Manager of the City that enforces this Chapter.

**NFPA.** National Fire Protection Association.

**Nighttime.** The period between 6:00 p.m. and 7:00 a.m. Central Standard Time and 8 p.m. to 7 a.m. Central Daylight Saving Time.

**Operator.** For each well, the person listed on the appropriate City application forms for a gas well that is, or will be, actually in charge and in control of drilling, maintaining, completing, 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 Ordinance, 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 Ordinance, the owner of the fee mineral estate in the premises shall be deemed an Operator.

**Person.** 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.** Every person, firm, co-partnership, association, partnership, corporation or society; and includes both singular and plural and the masculine shall include the feminine gender.

**Protected Use.** A residence, religious institution, hospital building, medical and dental office, nursing home, personal care facility, supervised living facility, public or private school, day care, or public park.

**Public Parks, Playground, or Golf Course.** 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 water courses.

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

**RRC.** The Railroad Commission of Texas or successor entity.



**Re-drill.** 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.** A house, duplex, apartment, townhouse, condominium, mobile home, or other building intended for dwelling purposes, whether occupied or not,, including those for which a building permit has been issued prior to the date an application for a Gas Well Permit is filed with the Inspector.

**Re-work.** To restore production when it has fallen off substantially or ceased altogether through clean out, re-completion, or re-entry of an existing well, or the replacement of well liners, tubing, or casing.

**Right-of-way (ROW).** 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 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 ROW. The term applies regardless of whether the public ROW is paved or unpaved.

**Salt Water Disposal Well.** A well used for the purpose of injecting produced or flowback water back into the ground.

**Seismic Survey.** An exploration method in which low frequency sound waves are generated on the surface to find subsurface rock structures that may contain hydrocarbons. Interpretation of the survey record can reveal possible hydrocarbon-bearing formations.

**State.** The State of Texas.

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

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

**TCEQ.** Texas Commission on Environmental Quality.

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

## ARTICLE III

### INSPECTOR/COORDINATOR

#### Section 3.01 Inspector/Coordinator

- A. The City Manager shall designate officials who shall enforce the provisions of this Chapter. The City Manager may retain Gas Inspector(s) and hereby designates the Building Official, Fire Chief and other City Inspectors as needed to enforce this Chapter. Any independent contractor Inspector shall have a degree in petroleum engineering with experience in drilling and production of natural gas or demonstrate a proven background in the drilling, production, and operation of natural gas development, drilling, and production. The Inspector 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. Failure of any person to comply with any such order or directive shall constitute a violation of this Ordinance.
- B. The Inspector shall have the authority to enter and inspect any premises covered by the provisions of this Ordinance 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 Inspector shall constitute a violation of this Chapter. The Inspector 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 RRC.
- C. The Inspector shall have the authority to request and receive any records, including any records sent to the RRC, reports and the like, relating to the status or condition of any permitted gas well necessary to establish and determine compliance with the applicable Gas Well Permit. Failure of any person to provide any such requested material shall be deemed a violation of this Ordinance.
- D. The Inspector shall have the authority to allow equivalent alternatives to the technical standards of this Ordinance if the Operator has demonstrated to the Inspector's satisfaction that the alternatives provide equal or greater protection of the environment and the public.

To determine the acceptability of as equivalent technologies, processes, products, facilities, materials and uses as they pertain to gas matters, the Inspector is authorized to require the Operator to provide, without charge to the City, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or specialty organization acceptable to the Inspector. The opinion and report shall analyze the properties of the technology, process, product, facility, material, or use and provide a recommendation as to its applicability in the Operator's particular set of circumstances. The Inspector is authorized to require design submittals to be prepared by, and bear the stamp of, a registered design professional.

- E. The Inspector shall have the authority to require the use of soundproofing methods to ensure compliance with the noise restrictions required by this Ordinance.

## ARTICLE IV

### AGENT

#### **Section 4.01 Operator's Agent**

Every Operator of any gas well shall designate an agent upon whom all orders and notices provided in this Ordinance 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.

## ARTICLE V

### GAS WELL PERMITS

#### **Section 5.01 Gas Well Permit Required**

- A. Approval of a specific use permit is required before a Gas Well Permit can be obtained from the City. The specific use permit shall establish the location of the drilling zone, and plans for fencing and landscaping. The specific use permit may address reductions in setbacks in accordance with Section 7.01.B.
- B. It shall be an offense 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, re-working, completion, or operation of any such well or to conduct any activity related to the production of gas without first obtaining a Gas Well Permit, or other appropriate permit in addition to a Gas Well Permit, issued by the City in accordance with this Ordinance. Activities include, but are not limited to re-working, initial site preparation, drilling, operation, construction of rigs or tank batteries, and fracturing. A permit shall be required for seismic surveys on public property. Written notice must be given to the Inspector no less than five business (5) days before the activities begin.
- C. A Gas Well Permit shall not constitute authority for the re-entering of an abandoned well. An Operator must obtain a new Gas Well Permit in accordance with the provisions of this Ordinance prior to drilling, re-working, or re-entering an abandoned well.
- D. When a Gas Well Permit has been issued to the Operator for the drilling, re-drilling, deepening, re-entering, activating, or converting of a well, such Gas Well Permit shall constitute sufficient authority for drilling, completion, operation, production gathering, or production maintenance, repair, re-working, testing, plugging, and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well, provided, however, that 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.

- E. Any person who intends to re-work a permitted well using a drilling rig, or to recomplete or frac a permitted well after initial completion or to conduct seismic surveys or other exploration activities, shall give written notice to the Inspector no less than five business (5) 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. 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 Inspector determines that an inspection is necessary, the Operator will pay the City for the inspection.

The following requirements shall apply to all fracing operations performed on a well: 1) at least five (5) business days before operations commence, the Operator shall post a sign at the entrance of the drill site advising the public of the date the operations will commence; and 2) 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.

The following requirements shall apply to all flowback operations performed on a well: 1) the Operator shall give written notice to the Inspector no less than five (5) business days before flowback operations will be conducted; 2) flowback operations to recover fluids used during fracing may be performed 24 hours per day and seven days per week; 3) truck traffic shall be permitted only during daytime, non-restricted hours; and 4) all other requirements must be followed.

- F. 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.

A Gas Well Permit may be extended by the Inspector for an additional one hundred eighty (180) days upon request by the Operator, proof that the specifics of the issued Gas Well Permit have not changed, and payment of an extended permit fee.

- G. The Gas Well Permits required by this Ordinance are in addition to and are not in lieu of any permit that may be required by the Zoning Ordinance, the Fire Code or any other provision of this Code, or by any other governmental agency.
- H. No Gas Well Permit shall be issued for any well to be drilled within any floodway, as defined in the Flood Damage Prevention chapter of the City's Code of Ordinances, and as identified by FEMA on the most current FIRM. Tanks and equipment located in any floodplain must also meet the minimum requirements of the Flood Damage Prevention chapter.

- I. A Gas Well Permit shall not be issued for any well to be drilled until the Operator has paid a road damage fee, as established by resolution from time to time by the City Council and the most current resolution is incorporated herein for all purposes. The road damage fee shall be paid by the Operator to the City prior to the commencement of any activity under the Gas Well Permit. The road damage fee is based on the *Road Damage Assessment Study* prepared for the City, as amended, and available with CD&P. The road damage fee shall be calculated based on the access lane miles for the appropriate road type, the assessment per lane mile, and the number of lane miles included in each gas well permit application. Replacement costs for asphalt and/or concrete road segments shall be determined from current cost per square yard of road surface material, including installation and labor.
- J. By acceptance of any Gas Well Permit issued pursuant to this Ordinance, the Operator expressly stipulates and agrees to be bound by and comply with the provisions of this Ordinance. The terms of this Ordinance 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 Ordinance was set forth verbatim in such Gas Well Permit. The Gas Well Permit shall also include any stipulations or conditions added as part of the approved zoning for the site.
- K. All requirements for permit approval shall comply with applicable state or federal laws, rules or regulations. The requirements of this Article shall be interpreted and applied in accordance with all applicable state or federal laws, rules and regulations.

**Section 5.02 Gas Well Permit Application and Filing Fees**

- A. Every application for a Gas Well Permit issued pursuant to this Ordinance shall be in writing signed by the Operator, or some person duly authorized to sign on his behalf, and filed with the Inspector.
- B. Every application shall be accompanied by a non-refundable permit fee. The permit fee shall be set by resolution of the Arlington City Council and amended from time to time and the most current resolution is incorporated herein for all purposes. The Operator, in addition to the usual application fee, shall pay the City an inspector fee in an amount set by resolution of the Arlington City Council for the services of an inspector and/or technical expert to review the application and/or information supplement, and for the services of staff personnel to perform ongoing inspection and ensure the Operator's compliance with this Chapter. Additional services the City incurs for services of an inspector and/or technical expert shall be paid by the Operator at the standard hourly rate plus expenses.
- C. The application shall include the following information:
  - 1. All application fees and other fees required by this Chapter
  - 2. Completed and signed application form containing at least the following information:

- a. Date of the application
  - b. Proposed well name
  - c. Surface owner names(s) and address(es) of the drill site
  - d. Mineral Lessee name and address
  - e. Applicant/Operator name and address and if the Operator is a corporation, the state of incorporation, address, officer's names and addresses, registered agent and address and Articles of Incorporation; and if the Operator is a partnership, the names and addresses of the general and limited partners. Copies of any "Doing Business As" filings.
  - f. Name and address of individual designated to receive notice
  - g. Name of Operator representative with supervisory authority over all gas drill site activities and a 24-hour phone number
  - h. The name, address and 24-hour phone number of the person to be notified in case of an emergency
  - i. The exact acreage of the drill site and number of wells included in the Gas Well Permit application.
  - j. A legal description of the surface property with lot/block information or abstract and survey.
  - k. A notarized statement signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct.
3. The site plan shall include the following information:
- a. Map showing proposed transportation routes and roads for equipment, supplies, chemicals or waste products used or produced by the gas operation. The map shall include a list of the length of all public roads that will be used for site ingress and egress. The map shall also show the location of any areas to be used for truck staging or storage related to the drill site.
  - b. Aerial exhibit showing the location and description of all buildings within 600 feet of the drilling zone. Include setback reduction support letters if a protected use is within 600 feet of the drilling zone.
  - c. A site plan of the proposed drill site showing the location of all improvements and equipment, including the location of the drilling

zone and the proposed well(s) and other facilities, including, but not limited to, fire hydrants proposed to supply water to the site, tanks, storage tanks, pipelines, fencing, lights, floodways, compressors, separators and storage sheds. Indicate proposed pipeline routes on the plan and the water storage proposal for facing.

- d. 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 buildings and other structures and the measured distance from the drill site to these buildings and structures, temporary and permanent fencing and landscaping. Provide distance measurements and general ordinal direction, from drilling zone to the nearest residence, school and park.
4. A description of public utilities required during drilling and operation.
  5. A site plan showing fire protection for the site, which shall include public or private hydrants, or indicate an alternate means of fire protection.
  6. A detailed site plan of the proposed drill site to include the location of the fire hydrant(s) or reclaimed water connections proposed to supply water to the site; an estimate of the total volume of water desired; and the approximate dates the water supply will be needed on site. Indicate on the plan the water source proposed for both the drilling and fracing stages. A copy of the approved water site plan shall accompany any request for a temporary construction meter. Drilling within 2,000 feet of a reclaimed water line requires connection to reclaimed water line for fracing purposes unless Operator demonstrates that use of reclaimed water is not economically feasible.
  7. A copy of any Stormwater Pollution Prevention Plan required by the EPA or City. A copy of the notice of intent shall be submitted to CD&P five (5) days prior to the commencement of any onsite activity.
  8. 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 RRC. Property recorded by plat should reference subdivision, block and lot numbers.
  9. A copy of the determination by the TCEQ of the depth of useable quality ground water.
  10. The insurance and security requirement documents required under this Chapter. An original of the bond or letter of credit shall be submitted.
  11. An Emergency Action Response Plan establishing written procedures to minimize any hazard resulting from drilling, completion, or production of gas wells. Said plan shall use existing best practices regarding protection of the public and be consistent with laws and regulations of the Fire Code,

NFPA, RRC, TCEQ, API, Department of Transportation, and/or the Environmental Protection Agency. The Emergency Action Response Plan shall be kept current with any additions, modifications, and/or amendments concerning all construction related activities, natural gas operations and natural gas production. Updated plans shall be submitted to the Inspector within five (5) business days after any additions, modifications, and/or amendments to said plan(s). A copy of the emergency response plan shall be kept on site. At a minimum, the emergency response plan shall provide for:

- a. Prompt and effective response by the Operator to emergencies regarding leaks or releases that can affect public health, safety and welfare; fire or explosions at or near a gas well; and natural disasters and severe weather.
  - b. Effective means to notify and communicate required and pertinent information to local fire, police and public officials during an emergency.
  - c. The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency.
  - d. Measures to be taken to reduce public exposure to injury and the probability of accidental death or dismemberment.
  - e. Emergency shutdown of a gas well and related site.
  - f. The safe restoration of service and operations following an emergency or incident.
  - g. A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.
  - h. An emergency notifications page that indicates all emergencies must be reported to the Fire Department at 911 and to CD&P.
  - i. Drive-to-maps from public rights-of-way to the drill site.
12. A Hazardous Materials Management Plan, prepared in accordance with the Fire Code, shall be submitted and be on file with the Fire Department and the Inspector.
  13. A copy of the pre-drilling ambient noise level report. The report shall reference the site, include dates the test was performed, identify the testing equipment used and where it was placed for testing, and include results.
  14. A Site Restoration Plan shall be submitted with the initial gas well permit on an approved site. At a minimum, this plan shall document the following:



- a. The existing conditions of the property prior to drilling activity, including site photographs.
  - b. A detailed description of site restoration methods that will ensure the site is restored to pre-development conditions, including site grading, vegetative restoration, and abandonment of any equipment or facilities.
- D. Any final plans or other documents required by this Chapter that will be archived must be submitted in an electronic format specified by the CD&P Director as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The CD&P Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

### **Section 5.03 Gas Well Permit Review Procedure**

- A. Gas Well Permit shall be required if proposed well is to be located within the City limits or extraterritorial jurisdiction on private or public property.
- B. It is the responsibility of the Inspector to review and approve or disapprove all applications for gas well drilling permits based on the criteria established by this Ordinance. The Inspector, within 30 days after the filing of a completed application for the first well on a site and remittance of all fees, insurance and security per the requirements of this Ordinance for a Gas Well Permit, shall determine whether or not the application complies in all respects with the provisions of this Ordinance 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.
- C. The provisions of this Ordinance 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 Inspector.
- D. The Gas Well Permit for the initial well(s) for a drill site must be approved by the City Council. After the initial well(s) are permitted, any future wells proposed for the same site may be approved by the CD&P Director, provided such future wells are to be drilled on and within the approved drilling zone and no deviations from any standards are requested by the Operator. Any wells proposed to be drilled outside the drilling zone will require an amendment to the approved zoning. In addition, the permits may not amend any site conditions established in the approving SUP.

The CD&P Director may, at their discretion, submit a gas well permit at any stage to the City Council for approval or review if the Operator for the specific site has been convicted of a total of two (2) or more violations of this Chapter or any

combination of this chapter, the Zoning Ordinance or the Fire Code within a twelve- (12) month period.

- E. Within forty-five (45) days of the Inspector's determination that the initial well application complies with all requirements, the Inspector shall schedule the matter for a public hearing 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 forty-five (45) day period shall not begin to run until the Inspector has made a determination that the application complies with all requirements.
- F. No more than thirty (30) days prior to the date of the public hearing before City Council for a Gas Well Permit under this Ordinance, Operator shall publish a copy of the notice as outlined below, at Operator's expense, in one 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 Arlington, Texas, on the \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_, \_\_\_\_\_ filed with the Inspector of the City of Arlington, an application for a Gas Well Permit to drill, complete and operate a well for gas upon property located at \_\_\_\_\_, \_\_\_\_\_ County, Arlington, Texas, more particularly shown on the map of record in Volume \_\_\_\_, Page \_\_, Plat records of \_\_\_\_\_ County, Texas or per Tax Tract Number \_\_\_\_\_, \_\_\_\_\_ County, Texas. The City Council will conduct a public hearing on the request for said permit on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_ o'clock \_\_.m. in the City Council Chambers located at 101 West Abram Street, Arlington, Texas.

- G. 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 Ordinance, the City shall notify each surface owner of property, as shown by the current tax roll, within six hundred (600) feet of the approved SUP boundary. The notice shall specify the time, date and location of the public hearing. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. Notice shall be sent to all registered neighborhood associations within one mile of the proposed drill site.
- H. No more than thirty (30) days prior to the date of the public hearing before the City Council, the Operator shall hold a public meeting with property owners, residents and neighborhood associations. The purpose of the meeting is to give residents an opportunity to review information related to the gas drilling permit request and to ask questions about the project. The Operator shall be responsible for notice of the public meeting, arranging for a meeting place and conducting the meeting. Notice shall be made by depositing the same, property addressed and postage paid, in the United States mail. Each notice shall include the date, time and place of the meeting, and must be mailed at least ten (10) days prior to the meeting to all surface owners within six hundred (600) feet of the approved SUP boundary and to all registered neighborhood associations within one (1) mile of

the SUP boundary. The Operator shall provide the Inspector a copy of the notice at least five (5) business days prior to the meeting date. A summary of the meeting and a copy of the sign-in sheets for the meeting must be submitted to the Inspector within five (5) business days after the meeting.

- I. 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 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 ROW, street, roadway or public thoroughfare adjacent to such property.
  - 1. The sign(s) shall indicate that a Gas Well Permit(s) has been requested, and indicate that additional information can be acquired by calling the phone number listed 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 Ordinance.
  - 3. Any sign(s) shall be removed by the Operator or applicant within five (5) days of final action by the City Council.
  - 4. City personnel will install the required sign upon request of the Operator and after Operator's payment of a sign installation fee in an amount set by resolution of the Arlington City Council
- J. All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.
- K. After a Gas Well Permit application is submitted, the Inspector shall evaluate the public impact of the proposed activity. The Inspector 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 Inspector deems appropriate. The recommendation shall be submitted to the City Council for consideration prior to the public hearing.
- L. At the public hearing and before the City Council considers the merits of the application and the recommendations of the Inspector, the applicant/Operator shall provide evidence of a certificate of publication establishing timely publication of the notice of the hearing, that timely actual notice of the hearing was given to all persons as required by this Ordinance and that the applicant/Operator has otherwise complied with or satisfied all other requirements of this Ordinance, including full and complete compliance with the insurance and security requirements.

- M. The burden of proof on all matters considered in the hearing shall be upon the applicant/Operator.
- N. The City Council shall review the application and any other related information. The City Council shall consider the following in deciding whether to grant an initial Gas Well Permit at a new drilling location:
  - 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 drill 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 conditions imposed by the Gas Well Permit;
  - 5. Whether the impact upon the adjacent property and the public by operations conducted in compliance with the Gas Well Permit conditions are reasonable and justified, balancing the following factors:
    - a. The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and
    - b. The availability of alternative drill sites.
- O. The City Council may require an increase in the distance the well is set back from any protected use or require any change in operation, plan, design, layout, or any change in the on-site and technical regulations in Section 7.01 of this Ordinance, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.
- P. 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.
- Q. The City Council may accept, reject or modify the application in the interest of securing compliance with this Ordinance, the City Code and/or to protect the health, safety and welfare of the community.
- R. 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 Inspector in writing of his decision.

- S. A copy of the approved RRC permit to drill and the corresponding Form W-1, P-12, and survey plat for each well must be submitted prior to the issuance of the gas well permit.

**Section 5.04 Denial of Gas Well Permit Application**

- A. If the CD&P Director or designee denies a Gas Well Permit application for reasons other than lack of required distance as set out in this Ordinance 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 Inspector to deny the Gas Well Permit, the Operator may: 1) cure those conditions that caused the denial and resubmit the application to the Inspector for approval; or 2) file an appeal to the City Council under the provisions outlined in this Ordinance pursuant to Section 9.01, Appeals of this Ordinance.
- B. If the CD&P Director or designee determines that all of the provisions of this Ordinance have been complied with by the Operator but that the proposed drill site does not comply with the distance requirements of this Ordinance under the requested Gas Well Permit, the Inspector shall notify the Operator. The Operator may revise the permit to comply or the Inspector shall notify the official designated by the City Manager and the official shall place the request for a Gas Well Permit under this Ordinance on the City Council agenda for public hearing within the next forty-five (45) days.

**Section 5.05 Amended Gas Well Permits**

- A. An Operator may submit an application to the Inspector to amend an existing Gas Well Permit to relocate a drill site that is shown on (or incorporated by reference as part of) the existing Gas Well Permit, or to otherwise amend the existing Gas Well Permit. Any change to a permit, which includes all provisions in the entire application packet of documents, must also go through the amended well permit process, e.g., change in Operator, transfer of lease, amended RRC permit, or pipeline routing. An Operator must submit an application 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.
- B. Applications for amended Gas Well Permits shall be in writing, shall be signed by the Operator, and shall include the following:
  - 1. A non-refundable permit fee as approved by resolution of the Arlington City Council. The Applicant/Operator, in addition to the usual application fee, shall pay the City for the actual cost to the City for the services of an inspector and/or technical expert to review the application and/or information supplement;

Additional services the City incurs for services of an inspector and/or technical expert shall be paid by the Operator.

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 Inspector to demonstrate compliance with the applicable Gas Well Permit; and
  5. Such additional information as is reasonably required by the Inspector to prevent imminent destruction of property or injury to persons.
- C. All applications for amended Gas Well Permits shall be filed with the 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 shall retain the application fee. 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, and if the proposed activities are in conformance with the applicable Gas Well Permit, then the CD&P Director or designee shall approve the amendment within ten (10) business 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 Gas Well Permit, then the CD&P Director or designee 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 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 Gas Well Permit or that was not otherwise taken into consideration by the existing Gas Well Permit, the Inspector may require the amendment to be processed as a new Gas Well Permit application.
- F. An amended permit shall not be approved if the activities proposed by the amendment seek to modify or change a condition of the approved zoning for the site.
- G. The failure of the CD&P Director or designee 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.
- H. The decision of the CD&P Director or designee to deny an amendment to a Gas Well Permit shall be provided to the Operator in writing within ten (10) business days after the decision, including an explanation of the basis for the decision. The Operator may appeal any such denial to the City Council.

### **Section 5.06 Suspension or Revocation of Gas Well Permit; Effect**

- A. Operator shall comply at all times with all applicable federal, state and City laws, regulations and rules. If an Operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a Gas Well Permit, the Operator is subject to immediate citation, injunction, abatement or any other remedy permitted by law. When possible under the circumstance, the Inspector or other designated City employee or representative 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.
- B. If the Operator fails to comply within ten days after notice, or fails to comply immediately if there is an imminent health and safety issue as determined by the sole discretion of the CD&P Director or designees, the Inspector may suspend or revoke the Gas Well Permit pursuant to the provisions of this Ordinance.
- C. No person shall carry on any operations performed under the terms of the Gas Well Permit issued under this Ordinance 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 RRC.
- D. If the Operator does not cure the noncompliance within the time specified in this Ordinance or immediately if there is an imminent health or safety condition, the Inspector may notify the RRC and request that the RRC take any appropriate action.
- E. Operator may file an appeal in writing directed to the City Council within thirty (30) days of the date of the decision of the Inspector in writing to suspend or revoke a Gas Well Permit.
- F. If an application for a Gas Well Permit is denied by the Inspector, nothing herein contained shall prevent a new permit application from being submitted to the Inspector for the same well.

### **Section 5.07 Annual Inspection and Reporting Requirements**

- A. The Operator shall be required to pay an annual administrative fee for each gas well permit for City costs for the review and inspection of each well's site and permit conditions, insurance documents, emergency response plans and other related items. The annual administrative fee shall be set by resolution of the City Council. The fee shall cover a calendar year period and will be assessed on the anniversary date of the issuance of the permit.

- B. The Operator shall notify the Inspector of any changes to the following information within one 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; and
  - 3. The Operator's Emergency Action Response Plan (including drive-to-maps from public rights-of-way to each drill site).
- C. The Operator shall notify the Inspector 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 business day.
- D. The Operator shall provide a copy of any incident reports or written complaints submitted to the RRC within thirty (30) days after the Operator has notice of the existence of such reports or complaints.
- E. The Operator shall provide an operational status report for every well permitted to the Operator within the City. The report shall include the Well Name, API Number, Lease Name, City Case Number, Commission Permit Number, Commission Lease ID Number and Current Status whether pending, drilling, completing, producing, plugged or abandoned.

## ARTICLE VI

### INSURANCE, BOND AND INDEMNITY

#### **Section 6.01 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 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. Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the Gas Well Permit.



4. Promptly restore to its former condition any roadway, ROW, or other public property damaged by the gas operation.

**B. Security Instrument: Cash, 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 cash, a 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 is restored, whichever occurs last. 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 Ordinance and other applicable City ordinances. 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 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. If the Letter of Credit is for a time period less than the life of the well as required by this Ordinance, the Operator must agree to either renew the Letter of Credit or replace the Letter of Credit with a bond in the amount required by this Ordinance, 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 Letter of Credit to be held by the City as security for Operator's performance of its obligations under this Ordinance.

The City shall be authorized to draw upon such cash, Letter of Credit or bond to recover any fines, penalties, defaults or violations assessed under this Chapter. No interest will be paid on any cash deposited with the City. In addition, the Letter of Credit may be used to draw down City road damage expense to the extent road damage cost exceeds the road damage fee paid with the permit application. 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 the cash, bond or letter of credit shall be as follows:

Number of Wells Per Site	Amount of Security Per Site
1 well	\$100,000
2 – 5 wells	\$150,000
6 or more wells	\$250,000
A cap of \$1,000,000 per site shall apply.	

- 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 unless immediate compliance is needed due to a serious health or safety condition. 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 any 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 Ordinance.

The City shall be authorized to draw against any cash, 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 RRC, 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 Ordinance.

- 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 or any other remedy available by law.

- 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 Ordinance, and in conformity with all regulations of the RRC 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 cash, bond or letter of credit required pursuant to this Ordinance, 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 on all applicable policies. A copy of the endorsement is required for evidence of coverage.
  - b. All policies shall be endorsed with a waiver of subrogation in favor of the City. A copy of the endorsement is required for evidence of coverage.
  - c. All policies shall be written on an occurrence basis where commercially available.
  - d. If coverage is written on a claims made basis, the Operator must maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the Gas Well Permit. The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.
  - e. All policies shall be written by an insurer with an A-: VII 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.
  - f. Deductibles shall be listed on the Certificate of Insurance and shall be on a per occurrence basis unless otherwise stipulated herein.
  - g. Certificates of Insurance shall be delivered to the City of Arlington, Community Development and Planning Department, 101 West Abram Street, Arlington, Texas 76010, and to Risk Management, 101 West

Abram Street, Arlington, Texas 76010 evidencing all the required coverage, including endorsements, prior to the issuance of a Gas Well Permit.

- h. Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
- i. Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.
- j. During the term of the Gas Well Permit, the Operator shall report, in a timely manner, to the Inspector any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- k. Upon request, certified copies of all insurance policies shall be furnished to the City.
- l. Irrespective of the requirements as to insurance to be carried, the insolvency, bankruptcy or failure of any insurance company to pay claims accruing shall not be held to waive any of the provisions of this Article.
- m. Operator shall pay promptly all premiums for such insurance in strict accordance with its obligations to its carrier and maintain the required coverage in full effect so long as the permit is valid.
- n. Failure to keep such policies in full force and effect, in accordance with the terms hereof, shall be unlawful.

2. Commercial General Liability Policy

This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution (with discovery and reporting periods of not less than fifteen (15) days and thirty (30) days respectively), blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum of One Million (\$1,000,000) dollars per occurrence.

3. Excess or Umbrella Liability

Insurance limits in a minimum of Ten Million Dollars (\$10,000,000). Coverage is to be at least as broad as, applies of and follows form of the primary liability coverage required for commercial general liability, auto

liability and employer's liability. 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 Five Million (\$5,000,000) dollars per loss.
- 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.
- c. The Operator shall maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the Gas Well Permit.

The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the City.

5. Control of Well Coverage

The policy should 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) per occurrence. A Five Hundred Thousand Dollar (\$500,000) 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 (\$500,000) dollars 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 (\$1,000,000) dollars combined single limit per occurrence.
  - b. Coverage must include all owned, hired and not-owned automobiles.
  - c. The City shall be named as an additional insured on the policy and provided with a waiver of subrogation.
  
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 set forth by the insurance company 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 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.
  - 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 INSPECTOR 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 ARLINGTON, 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 ARLINGTON, TEXAS, 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 ARLINGTON, 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 ARLINGTON, 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 ARLINGTON OCCURRING ON THE DRILL 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 ARLINGTON OCCURRING ON THE DRILL 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 ARLINGTON, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF ARLINGTON, 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.

E. **Notice**

The individual designated to receive notice may be served in person or by registered or certified mail. Every Operator shall, within five business (5) days, notify the Inspector in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

F. **Electronic Submittal of Final Plans and Other Documents**

Final plans or other documents required to be submitted under this Chapter and that will be archived must be submitted in an electronic format specified by the CD&P Director as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The CD&P Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

## ARTICLE VII

### ON SITE AND TECHNICAL REGULATIONS

#### Section 7.01 Technical Regulations

A. **On Site Requirements**

1. **Abandoned Wells.** All wells shall be plugged and abandoned in accordance with the rules of the RRC and Section 7.03.
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 operations as required by and in conformance with the requirements of the RRC and the recommendations of the API.
3. **Compliance with Fire Code.** All operations, well facilities and equipment used at or located on the site shall comply with the provisions of the Fire Code and NFPA standards where applicable.
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 private or public 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. Watering, wetting or other methods or materials must be used to control dust adjacent to residential property.
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. All electrical installations and equipment shall conform to the City ordinances and the appropriate electrical codes.
9. **Emergency Response Plan.** Prior to the commencement of any gas or other hydrocarbons production activities, Operator shall submit to the Fire Chief and Inspector 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 RRC, TCEQ, Department of Transportation, and/or the EPA and City Fire Code. A copy of the Emergency Response Plan shall be kept on site.
10. **Equipment painted.** 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 Inspector 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 color shall comply with any State requirements, be of a neutral color, and be compatible with surrounding uses.

11. **Explosives.** The use of explosive charges on any drill site shall require an explosives permit from the Fire Marshal, as required by the Fire Code of the City. Use of explosive charges within the City limits shall require approval by the Fire Marshal.
12. **Fire notice.** In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the Operator shall immediately report such condition to the Fire Department.
13. **Fire prevention.** Firefighting apparatus, suppression equipment and supplies as approved by the Fire Department 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 drill site at all times during drilling and production operations. Fire extinguishers must be located on the site at all times when personnel are present. 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 well heads shall contain an emergency shut off valve to the well production sale line.

14. **Fracture Stimulation Earthen Pit.** Frac ponds shall be designed in accordance with the following table:

<b>Tier</b>	<b>Pond Design</b>	<b>Fencing/Landscaping</b>
1	Water feature on the site	<ul style="list-style-type: none"> <li>• 6-foot tall black vinyl-coated chain link fence around pond</li> <li>• Informal planting of shrubs around the pond</li> <li>• One street tree for every 30 feet of frontage along ROW</li> </ul>
2	Water feature on the site	<ul style="list-style-type: none"> <li>• 6-foot tall black vinyl -coated chain link fence around pond</li> <li>• One street tree for every 30 feet of frontage along ROW</li> </ul>

Tier 1 requirements apply when frac ponds are located within 600 feet of a protected use, adjacent to ROW, or visible from a public street.

Tier 2 requirements apply when frac ponds are not adjacent to ROW and not within 600 feet of a protected use.

Street trees shall be planted and selected in accordance with the parkway planting standards contained in the Zoning Ordinance.

Frac ponds must have a lining with a permeability of no more than  $1 \times 10^{-4}$  cm/sc. Soils used for pond lining must be free from foreign material such as paper, brush, trees and large rocks.

If an Operator who maintains a tank or pit does not take protective measures necessary to prevent harm to birds, the operator may incur liability under federal and state wildlife protection laws. Federal statutes, such as the Migratory Bird Treaty Act, provide substantial penalties for the death of certain species of birds due to contact with oil in a tank or pit. These penalties may include imprisonment. State statutes also protect certain species of birds. An Operator must screen, net, cover, or otherwise render harmless to birds all open-top storage tanks that are eight feet or greater in diameter and contain a continuous or frequent surface film or accumulation of oil. However, temporary, portable storage tanks that are used to hold fluids during drilling operations, workovers, or well tests are exempt.

15. **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 Fire Code. 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 law, 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 drill site and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners. Written notification must be provided to the Inspector at least 72 hours before any flaring activity is to begin.

In the event of the loss of gas or other hazardous material from the well site, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this Ordinance and shall notify the Fire Department and CD&P Director as soon as practicable. If the Fire Inspector believes that it is necessary to take emergency action due to a potential or actual situation that danger to persons and property exists or will exist because of such loss or potential 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 Inspector 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 Inspector deems necessary to regain control of such well. Operator shall reimburse the City for any expenses incurred and the City may pursue all available recourses to collect its expenses from Operator including use of security and insurance provided by Operator under this chapter. The standard of care applicable to the Fire Inspector for emergency action is set out in the Emergency Chapter of the City Code.

16. **Gas lift compressor.** Any onsite compressor used to 'lift gas' shall be designed to comply with the noise requirements of this Ordinance.

17. **Gas processing onsite.** Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises unless approved as part of the Gas Well Permit.
18. **Grass, weeds, trash.** The property on which a drill 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.
19. **Hazardous Plan.** A Hazardous Materials Management Plan shall be on file with the Fire Department and the Inspector.
20. **Lights.** No person shall permit any lights located on any drill site to be directed in such a manner so that the lights shine directly on public roads, adjacent property or property in the general vicinity of the drill site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally to avoid glare on public roads and adjacent dwellings and buildings within three hundred (300) feet.

The location of existing and proposed lights should be shown on the gas well permit site plan.

21. **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.
22. **Private roads and drill sites.** Prior to the commencement of any drilling operations, all private roads used for access to the drill site itself shall be at least twenty-four (24) feet wide and have an overhead clearance of fourteen (14) feet. At a minimum, the road shall be surfaced with bituminous surface treatment (e.g., chip seal), but asphalt and concrete paving are acceptable. Roads shall not be surfaced with gravel or caliche. All private roads shall have a concrete drive approach constructed in accordance with City design standards. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the Inspector 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 operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind. Watering, wetting, or other

methods or materials must be used to control dust adjacent to residential property.

23. **Rigs.** Electric or diesel-electric hybrid rigs must be utilized for drilling a well located within four hundred fifty (450) feet of a protected use. The CD&P Director may authorize the use of alternative rigs in specific cases if it is determined that the project is in substantial compliance with this Chapter.
24. **Salt Water Wells.** No salt water disposal wells shall be located within the City of Arlington.
25. **Security.** At all times, the operation site or compressor station shall have a minimum of one security camera mounted inside the enclosure.

Signs shall be posted on the fence or wall of the site to indicate that activity on the site may be recorded by video surveillance. Camera systems shall be maintained in proper operating condition and shall be designed and located to meet the following requirements:

- a. capture clear video images (day and night) of all traffic entering and exiting the gate(s);
- b. capture clear video images (day and night) of all production equipment located on the site; and
- c. show the date and time of all activity on the footage.

Operator shall maintain video data for a period of five (5) business days. At the request of City law enforcement officials, the operator shall make available any recorded views of the enclosed area.

26. **Signs.**
  - a. A sign shall be displayed immediately and prominently at the gate on the fencing erected pursuant to Section 7.01.C.2 of this Ordinance. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the RRC, shall have a surface area of not less than two (2) square feet or 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.

<p align="center"><b>Well Name/Number</b>  Name of Operator  Operator 24-hour emergency  number  EMERGENCY - DIAL 911</p>
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- b. Permanent weatherproof signs reading DANGER NO SMOKING OR OPEN FLAME ALLOWED, PELIGRO NO FUMAR O INICIAR LLAMA EN ESTA AREA shall be posted immediately upon completion of the drill site fencing at the entrance of each drill site and tank battery or in any other location approved or designated by the Fire Chief 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. A label must be located on each tank indicating exact chemicals that may be contained in the tank. Text shall be minimum six (6) inches in height, contrasting with the background color. Each sign shall include the emergency notification numbers of the Fire Department and the Operator, well and lease designations required by the RRC.
- c. No other signs shall be permitted on the site except as required by the RRC.

<p align="center"><b>DANGER!</b>  <b>NO SMOKING OR OPEN  FLAME ALLOWED</b></p> <p align="center"><b>¡PELIGRO!</b>  <b>NO FUMAR O INICIAR  LLAMA EN ESTA AREA</b></p>
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<p align="center"><b>DANGER!</b>  <b>NO SMOKING OR OPEN  FLAME ALLOWED</b></p> <p align="center"><b>¡PELIGRO!</b>  <b>NO FUMAR O INICIAR  LLAMA EN ESTA AREA</b></p>
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- 27. **Storage of equipment.** On-site storage of equipment is prohibited on the drill site. 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, ROW or in any driveway, alley or upon any drill 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 Department shall be the entity that determines whether equipment on the site shall constitute a fire hazard.
- 28. **Storage Tanks, Well Facilities and Equipment.**
  - a. All tanks, temporary or permanent, shall conform to API specifications unless other specifications are approved by the Fire Chief. 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 (1½) 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.

- b. Secondary containment shall be required for all equipment. Secondary containment shall be capable of containing a release of one hundred fifty (150) percent of the largest storage container within the containment and have adequate freeboard to contain an average annual rain event.
  - c. All tanks, well facilities and equipment shall be set back pursuant to the standards of the RRC and the NFPA. , and in all cases shall be at least twenty-five (25) feet from any public ROW or property line and at least two hundred (200) feet from a protected use.
  - d. The sidewalk height of all tanks shall be no higher than eight (8) feet above the terrain surrounding the tanks.
  - 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. The appropriate NFPA diamond hazard placard shall be placed on each tank and piece of equipment, as applicable.
  - g. All storage tanks, well facilities and equipment shall be equipped with a lightning arrestor system in accordance with the Fire Code and NFPA standards.
  - h. No meters, storage tanks, separation facilities, or other aboveground facilities, other than the well head and flow lines, shall be placed in a floodway or the 100-year floodplain.
29. **Valves.** Each well must have a shutoff valve to terminate the well's production.
30. **Vapor Recovery Units.** Any drill site that produces more than one (1) barrel of condensate per day shall install a vapor recovery unit on the site. Operator shall provide monthly reports to the Inspector documenting any found condensate.
31. **Waste Disposal.** Unless otherwise directed by the RRC, all tanks used for storage shall conform to the following:

- a. Operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet API standards. All tanks must have a vent line, flame arrester and pressure relief valve. No tank battery shall be within one hundred (100) feet of any dwelling or other combustible structure.
- b. Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into above-ground tanks (closed loop mud system). All disposals must be in accordance with the rules of the RRC and any other appropriate local, state or federal agency.
- c. Unless otherwise directed by the RRC, 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 Ordinance and any other applicable ordinance of the City.

**32. Wellhead Status after Fracing.**

- a. All wellbores, mouse holes, rat holes, cellars, and conduit casings shall be:
  - (1) covered at all times when not in use by appropriate means that adequately covers the entire bore hole;
  - (2) completed through the production casing flange with a metal plate or blind flange bolted across the head; and
  - (3) protected from vandalism, wind driven debris, vehicle damage or other threat that would have the potential to disrupt operations or release any amount of natural gas.
- b. The cellar shall be filled or closed.
- c. The Bradenhead shall be piped to the surface and have an observable and adequate pressure gauge with operable test valve.

**B. Well setbacks.**

**1. External Setbacks.**

- a. It shall be unlawful to drill any well that, at the surface of the ground, is located within six hundred (600) feet from a park or within six hundred (600) feet from a protected use for which a building permit has been issued on or before the date of the application for a drilling



permit. The distance shall be calculated from the boundary of the drilling zone, in a straight line, without regard to intervening structures or objects, to the primary structure of the protected use or public park boundary.

(1) This setback distance may be reduced by the City Council to not less than three hundred (300) feet only when there is the written consent of seventy (70) percent of the surface property owners within a radius between three hundred (300) feet and six hundred (600) feet around said drill zone or upon the affirmative vote of not less than a super-majority of seven (7) members of the City Council. Petitions in support or opposition to the setback distance reduction must be submitted to the City at least one (1) business day prior to the date of the City Council public hearing. In the event the public hearing is continued, additional petitions may be submitted until one (1) business day prior to the date at which the hearing is continued. For the purposes of this calculation, City-owned property shall not be included in determining the percentage.

(2). In the event such approval or consent is not obtained, and upon providing evidence of an attempt to obtain consent of seventy (70) percent of the surface property owners, then the distance may be reduced upon an affirmative vote of a super-majority of seven (7) 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, and take into account the presence of natural or man-made barriers.

b. It shall be unlawful to drill any well that, at the surface of the ground, is located within six hundred (600) feet from Lake Arlington reservoir area, as defined by the Lake Arlington chapter of the City Code. The distance shall be calculated from the boundary of the drilling zone, in a straight line, without regard to intervening structures or objects to the boundary of the reservoir area.

## 2. **Internal Setbacks.**

- a. Within twenty-five (25) feet from any outer boundary line of the drill site; or
- b. Within twenty-five (25) feet from any storage tank, or source of ignition; or
- c. Within seventy-five (75) feet of any public street, road, highway or future street, right-of-way or property line; or

- d. Within one hundred (100) feet of any building accessory to, but not necessary to the operation of the well; or
- e. Within two hundred (200) feet to any fresh water well.

**C. Landscaping and Fencing**

- 1. **Landscaping and Perimeter Fencing.** Within thirty (30) days after spudding the first well on the site, the following landscaping and perimeter fencing improvements shall be installed:

<b>Tier</b>	<b>Landscaping</b>	<b>Perimeter Fencing</b>
1	<ul style="list-style-type: none"> <li>• 40-foot transitional buffer around drill site</li> <li>• 10-foot wide streetscape setback with street trees</li> </ul>	<ul style="list-style-type: none"> <li>• 8-foot tall masonry wall with 75% opacity around the perimeter of the drill site</li> <li>• Installation of gate</li> </ul>
2	<ul style="list-style-type: none"> <li>• 20-foot transitional buffer around drill site</li> <li>• 10-foot wide streetscape setback with street trees</li> </ul>	<ul style="list-style-type: none"> <li>• 8-foot tall ornamental iron fence with masonry columns around the perimeter of the drill site</li> <li>• Installation of gate</li> </ul>

Tier 1 requirements apply in all locations except for industrial zoning districts.

Tier 2 requirements apply in industrial zoning districts.

All landscaping and fencing must be maintained in accordance to the requirements contained in the zoning ordinance.

- 2. **Administrative Adjustment.** The CD&P Director or designee may approve administrative adjustments to the landscaping and perimeter fencing design if it is found that the adjustments:
  - a. are consistent with the state purpose of this Chapter; and
  - b. meet all other applicable building and safety codes; and
  - c. will not adversely affect the proposed development of use of adjacent property or neighborhoods; and
  - d. are necessary to accommodate an alternative or innovative design that achieves to the same or better degree the objective of the landscaping and perimeter fencing standard to be modified.

3. **Street Trees.** Street trees are required to be planted along the ROW for all Tier 1 and Tier 2 drill sites in accordance with the parkway planting requirements contained in the Zoning Ordinance. The street trees should be planted in the area the same width of the drill site along the nearest ROW.
4. Masonry wall specifications shall be as follows:
  - a. The wall shall be of a design compatible with the facilities, buildings and structures on and adjacent to the site;
  - b. No trespassing signs are required on the fence on all four sides of the drill site.
5. **Gate specifications.** All perimeter fences shall be equipped with at least one (1) gate. The gate shall meet the following specifications:
  - a. 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.
  - b. 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
  - c. Operator must provide the Inspector and Fire Department with a Knox Padlock or Knox Box entry system or equivalent on the gate to access the drill site in case of an emergency.

**D. Vehicle Routes for Gas Well Permit**

1. Vehicles in excess of three (3) tons associated with drilling and/or production shall comply with the City Council approved transportation route.
2. The City Council may restrict the hours of operation of vehicles associated with drilling and/or production when the proposed vehicle route passes through a designated school zone, heavily used roadway or intersection, near protected uses, or along local residential streets. The CD&P Department shall review the vehicle routes to determine if a proposed route includes a designated school zone.
3. In the event of construction detours or roadway deterioration on an approved transportation route or TXDOT permitting, the Inspector may amend the approved route.

**E. Work Hours for Gas Well Permit**

Drilling and flowback operations may take place on a 24-hour basis any day of the year except Thanksgiving or Christmas Day, which requires approval by the CD&P Director. Site preparation, well servicing, truck deliveries of equipment and materials, fracing, and other related work conducted on the drill site shall be limited to between the hours of 7 a.m. to 6 p.m., Central Standard Time and 7 a.m. to 8 p.m. Central Daylight Saving Time, Monday through Saturday. Other than mobilization, demobilization, and advancing the bore hole, no other activities shall be allowed on the drill site on Thanksgiving or Christmas Day. The restriction on work hours shall not apply 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.

**F. Noise Restrictions for Gas Well Permit**

1. Prior to the issuance of a gas well permit, the Operator shall report to the Inspector ambient noise readings taken over a 72-hour period, including at least one 24-hour reading during a Saturday or Sunday. During the 72-hour period, readings shall be taken from the hours of 7:00 a.m. to 7:00 p.m. to establish the pre-drilling ambient noise level for daytime operations, and readings shall be taken from 7:00 p.m. to 7:00 a.m. to establish the pre-drilling ambient noise level for any nighttime operations.
2. The ambient reading shall be taken 100 feet from the nearest protected use or 600 feet from the proposed drilling zone in the direction towards the nearest protected use, whichever distance is shorter.
3. The operator must provide the Inspector a noise mitigation plan. The plan should detail the ambient noise level and anticipated mitigation techniques.
4. The sound level meter used in conducting noise evaluations shall meet the American National Standards Institute’s standard for sound meters.
5. The exterior noise level generated by operations shall not exceed the pre-drilling ambient noise level by more than the levels shown in the following table:

<b>Operation</b>	<b>Daytime Hours</b>	<b>Nighttime Hours</b>
Drilling or re-drilling	Five (5) decibels	Three (3) decibels
Fracing	Seven (7) decibels	N/A
Flowback	Five (5) decibels	Three (3) decibels
Production	Zero (0) decibels	Zero (0) decibels

6. An Operator shall not drill or re-drill a well or operate any equipment in such a manner so as to create pure tones where one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of two contiguous one-third octave bands by five dB for center frequencies of 500 Hertz and above, and by

eight dB for center frequencies between 160 and 400 Hertz, and by 15 dB for center frequencies less than or equal to 125 Hertz.

7. An Operator shall not drill or re-drill a well or operate any equipment in such a manner to create low-frequency outdoor noise levels that exceed the following decibel levels:

16 Hertz octave band:	65 dB
32 Hertz octave band:	65 dB
64 Hertz octave band:	65 dB

8. The exterior noise level generated by the drilling, re-drilling, fracing, re-working, or other operations of all gas wells located within six hundred (600) feet of a protected use shall be continuously monitored to ensure compliance. The monitoring shall be real time and continually accessible to the Inspector via a streaming medium, e.g., internet, web based data, Bluetooth sharing. The cost of such monitoring shall be borne by the Operator. Every 24-hour period should be summarized in a report and provided to the Inspector in a format that is acceptable to the Inspector. Failure to provide this information within two business days is considered a violation of this subsection.
9. Acoustical blankets, sound walls, mufflers, or other alternative methods may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and is subject to approval by the Inspector. All soundproofing measures must be removed from the site no later than sixty (60) days after drilling operations have ceased. The Inspector may grant an extension of time if additional drilling activities will commence within a reasonable time period.
10. If a complaint is received after gas well drilling operations begin by either the Operator or the City, the Operator shall immediately upon receipt of the complaint, notify the Inspector and continuously monitor the exterior noise level generated by the gas well drilling or production for a twenty-four (24) hour period and take the action necessary to abate the violation, if a violation exists.

**G. Closed Loop Mud Systems**

A Closed Loop Mud System shall be used in conjunction with all drilling and reworking operations for all Gas Well Permits, unless specifically waived by the City Council.

**H. Natural Gas Compressor Stations**

1. Approved zoning is required before a permit for a natural gas compressor station can be obtained from the City.

2. All natural gas compressor stations shall be constructed, operated and maintained in accordance with the Fire Code, NFPA standards, and all other building and development ordinances of the City.
3. All compressor station equipment, at the issuance of the initial certificate of occupancy, shall be set back a minimum of six hundred (600) feet from a park or from a protected use, or a minimum of three hundred (300) feet from all other uses, for which a building permit has been issued on or before the date of the application for a drilling permit. The distance shall be calculated from the primary structure of the compressor station equipment to the primary structure of the protected use or other use or park boundary. This setback may be reduced by the City Council if written consent of seventy (70) percent of the surface property owners is obtained. In the event such approval or consent is not obtained, and upon providing evidence of an attempt to obtain consent of seventy (70) percent of the surface property owners, then the distance may be reduced upon an affirmative vote of a super-majority of seven (7) members of the City Council.
4. The boundary of the compressor station site shall be enclosed by an eight (8) foot tall masonry screening wall on all sides.
5. All compressor station equipment at the proposed site exceeding 10 feet in height shall be enclosed within a building. All buildings shall have exterior walls constructed of masonry, as defined in Article II of the Zoning Ordinance.
6. The operation of the equipment shall not create any noise that causes the exterior noise level to exceed the pre-development ambient noise levels, as measured at the six hundred (600) foot setback. The Operator shall be responsible for establishing and reporting to the City the pre-development ambient noise level prior to the issuance of the compressor station permit. The ambient noise level shall be established in accordance with the guidelines defined in Section 7.01.F.
7. The compressor station site shall be landscaped as follows:
  - a. Landscaping and irrigation shall be provided as identified in the approved zoning and/or specific use permit.
  - b. It shall be the responsibility of the Operator to comply with the City's landscaping ordinance including tree preservation/mitigation and maintenance.
  - c. Landscaping must blend with the environment and existing surrounding area.
  - d. Landscaping must be installed within thirty (30) days from the completion of the permitted compressor station.

8. The Inspector shall inspect the compressor station site on an annual basis to determine compliance with the provisions of this Ordinance.

**I. Saltwater Disposal Lines**

1. Engineered construction drawings for all saltwater disposal lines, including but not limited to gas drilling flowback water, shall be submitted to the City of Arlington Water Utilities department for review. The drawings shall be sealed by a professional engineer licensed to practice in the State. The drawings shall include the surveyed alignment for the saltwater disposal lines and the limits of any easements. A maintenance plan and inspection schedule will be provided to the City.
2. Salt water disposal lines shall be prohibited within one hundred (100) feet of the flowage easement lands around Lake Arlington. Flowage easement lands are defined as those lands below the elevation contour of 560.0 feet above mean sea level. Salt water disposal lines shall also be prohibited under Lake Arlington.
3. City water utility standards must be used in the design. The plans must be approved by the City prior to construction and will be subject to inspection by the City. All applicable plan review and inspection fees shall be paid to the City.

**J. Installation of pipelines on, under or across public property**

1. The Operator shall apply to the City for a franchise, Pipeline License Agreement, or other Arlington 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 Ordinance. Operator shall:
  - a. 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.
  - b. Furnish to the CD&P Director a plat showing the location of such pipelines.
  - c. Construct such lines out of pipe in accordance with relevant federal, state and local regulations and laws including venting if under a street;
  - d. Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed before pipeline construction.
  - e. Comply with all City ordinances.

2. 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 shown by the current comprehensive plan of the City, 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 Inspector. Any consent from the Inspector 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.
3. All sites with aboveground equipment such as pipeline facilities, valve stations or pig launchers shall be landscaped and screened in accordance with the requirements of this Chapter.

**K. Required Notifications**

1. **Surface Casing.** The Operator's agent shall notify the Inspector in writing at least seventy-two hours prior to running and cementing surface casing. The procedures to be followed in this operation shall be as provided in Cementing, Rule No. 13 of the RRC.
2. **Completion.** The Operator's agent shall notify Inspector in writing at least seventy-two hours prior to starting completion procedures such as perforating and fracing. The well must be equipped with a Blowout Preventer before this operation is commenced. In addition, if a bridge plug is set over a producing formation prior to additional completion, it must be pressure tested to a sufficient pressure to ensure that it is not leaking.
3. **Pipeline Connections.** The Operator's agent shall notify the Inspector in writing at least seventy-two hours after the first sale. The tank battery shall be equipped with a lightning arrester.
4. **Final Acceptance.** Within thirty (30) days of the start of production of a well, or of the operation of a pipeline, the Inspector will inspect and accept or reject the drill site or pipeline installation site clean-up and permanent provisions for security and screening of the drill site. The Inspector will provide the Operator written notification of acceptance within ten (10) working days. If the clean-up or proposed provisions for security and screening are rejected by the City, the Operator will be notified of the rejection and the reasons for the rejection in writing within ten (10) working days. The Operator must take action to nullify and correct the reasons for rejection within thirty (30) calendar days from the notification.

**L. Operations and Equipment; Practices, Standards, and Appearance**

1. All drilling and pipeline operations shall be conducted in accordance with the practices of a reasonable and prudent operation in the State. All



material, equipment, and testing used shall be of a quality and type consistent with such practice.

2. Each Operator shall not contaminate the ground water by the drilling, pipeline installation or production activities. All rules of the Federal Government, the State, and the City regarding protecting natural resources must be strictly followed.
3. Drilling and pipeline production operations shall be conducted in such a manner as to minimize noise, vibration, dust, odors, or other nuisances. Internal combustion engines used on the well or pipeline site must be fitted with exhaust mufflers. For production purposes, only electrically or natural gas powered compressors or motors may be used.
4. No refining of any kind, except for gas dehydrating and physical phase separation, shall take place at the drill site.
5. The drill site shall not be allowed to become dilapidated, unsightly, or unsafe.
6. The well or pipeline site shall not be used to store pipe, drilling equipment, or materials after the drilling or pipeline installation operation has ceased.
7. No refining plant or cooling plant shall be allowed in the City at any time.
8. Flaring or burning of gas or petroleum of any kind after the well is in production is prohibited. Temporary flaring or burning to accommodate public safety may be performed but only when approved by the Fire Inspector.

## **Section 7.02 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, complete restoration activities and repair all property damage caused by such operations to be completed within thirty (30) days, in accordance with the Site Remediation Plan.
- B. **Clean-up 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 City Fire Chief and the Inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. If the Operator fails to begin site clean-up within twenty-four (24) hours, the Inspector and/or Fire Inspector may contract for or otherwise employ any clean-up experts by contract or otherwise at the sole expense of Operator. Operator expressly consents by applying for a permit to allow a drawdown of any bond or letter of credit to cover any expenses related to clean-up of the site or emergency response and mitigation efforts performed by any City public safety agency or its contractors. In the event that the bond or

letter of credit is exhausted or exhausted by 25% or more Operator agrees to replenish the amount immediately. City shall have the right to contact the RRC 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 drill 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 and on the drill site.
- 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 Inspector 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, and comply with any state requirements. Neutral colors shall include sand, gray and unobtrusive shades of brown, or other neutral colors approved by the Inspector. Fire protection system components and other emergency or shut-in operation devices shall be painted red and marked according to Fire Code and NFPA standards to the extent not in conflict with applicable federal or state law or regulations.
- 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 Ordinance and shall notify the Inspector as soon as practicable. The Fire Inspector shall certify in writing, briefly describing the same, to the official designated by the Fire Chief. If in the opinion of the Fire Inspector, 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 City 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 Inspector deems necessary to regain control of such well. Operator shall reimburse the City for any expenses incurred and the City may pursue all available recourses to collect its expenses from Operator including use of security and insurance provided by Operator under Article VI

### **Section 7.03 Plugged and Abandoned Wells**

- A. **Surface requirements for plugged and abandoned well.** Whenever plugging and abandonment occurs pursuant to the requirements of the RRC, the Operator shall be responsible for the restoration of the drill site to its original condition as nearly as practicable, in conformity with the regulations of this Ordinance.
- B. **Approval by Inspector.** Abandonment shall be approved by the Inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the Inspector:

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 RRC;
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. The masonry wall may remain on the site if the property owner requests that the wall stay after the well is plugged or abandoned or the Inspector determines the wall is consistent with the development and serves as an amenity feature. The Inspector may require the wall to be removed.
7. During abandonment, Operator shall comply with all applicable sections in this Ordinance.

C. **Abandoned well requirement.** The Operator shall furnish the following at the discretion of the Inspector:

1. A copy of the W-3A 'Notice of Intention to Plug & Abandon' and W-3 'Plugging Record' forms on the same date these forms are submitted to the Commission; and
2. A prior forty-eight (48) hour 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.
3. All wells shall be abandoned in accordance with the rules of the RRC; however, all well casings and cellars shall be cut and removed to a depth of at least three (3) feet below the surface. A permanent abandonment marker pipe, with the well identity and location permanently inscribed, shall be welded to the casing and shall be at least four (4) inches in diameter with a length of four (4) feet visible above the ground level.

D. **Abandonment requirements prior to new construction.** All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the RRC prior to the issuance of any building permit for development of the property. No structure shall be built over a plugged well.

## ARTICLE VIII

### TECHNICAL ADVISOR

#### Section 8.01 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 Ordinance, 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 Ordinance. 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 Manager designee charged with administration of this chapter.

## ARTICLE IX

### APPEALS

#### Section 9.01 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 as provided by this Ordinance. Any person or entity whose application is denied by the Inspector (other than for distance requirements set out in this Ordinance) 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 Inspector, file an appeal to the City Council in accordance with the following procedure:
1. An appeal shall be in writing and shall be filed with the CD&P Director. 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 CD&P Director 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. To ensure that all state or federal law preemption determinations are made by the City only after the City is in receipt of all information necessary to allow the City to determine whether state or federal law preempts certain areas of the City's regulatory authority and provide a method of administrative review of preemption determinations, the following administrative procedure for consideration of any claim of state or federal preemption shall be followed prior to any lawsuit being filed in a court of competent jurisdiction against the city with a preemption claim.
1. Any person that believes state or federal law preempts certain areas of City regulatory authority shall submit to the Building Official a letter explaining the factual and legal bases upon which the person relies to support the contention that City regulation is preempted and the person is therefore not subject to a particular City regulation, order, ordinance, rule, expiration date, or other properly adopted requirement. Such written submission 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 the property for which the person claims preemption;
    - c. Identification of the intended use and facilities;
    - d. The identification of any permits requested pursuant to this Chapter;
    - e. A chronology of the history of the project or permit; and
    - f. Identification of particular City regulations the person contends are preempted or otherwise do not apply. Global references to a particular ordinance, statute, or set of criteria may be deemed insufficient and the City may consider the request for a preemption determination to be incomplete and not subject to a staff determination;
  2. The Building Official shall promptly forward the person's preemption determination request, along with any supporting information or documentation provided along with the request, to the City Manager and City Attorney for their review. The City Manager, after consultation with the City Attorney, and with forty-five (45) days of receiving the request, shall issue a final administrative determination of whether the City's regulation has been preempted under state or federal law, and shall identify, with particularity, areas where the City's regulatory authority has been preempted under state or federal law or shall begin an appropriate action before the Texas Railroad Commission or other state regulatory authority as applicable. Prior to rendering the final determination or such state agency action, the City Manager may request a pre-determination conference with the person to discuss the person's preemption claim and to ensure that the nature of the claim is full and completely understood by the City Manager.

3. Any person aggrieved by or believes that the City Manager's preemption determination in the final administrative determination is in error shall have the right to appeal such determination to the City Council, which shall have jurisdiction to hear and decide the appeal. Within forty-five (45) days of receipt of the appeal, The City Manager shall 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. The City Manager's final determination, if not timely appealed to the City Council within thirty (30) days shall be final and binding upon the City and the person for the duration of the project.
  4. Any person aggrieved by the actions of the City Council may present to a court of record a petition, duly verified, setting forth that such decision is illegal in whole or in part, and specifying the grounds of the illegality. Unless such petition is filed with said court within thirty (30) days of the decision of the City Council, the decision shall become final and binding upon the City and the person for the duration of the project. Notwithstanding the binding nature of the City Manager's final determination and the ruling of City Council, the City and the person may, at any time, enter into an agreement that, to the extent authorized by law, modifies the final determination and the applicable regulations to be applied to the project.
- C. Appeal fees shall be required for every appeal in the amount as approved by resolution of the Arlington City Council.

## **ARTICLE X**

### **PENALTY**

#### **Section 10.01 Penalty**

- A. 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; or
  2. Fail to comply with any condition set forth in a Gas Well Permit issued under this Chapter.
- B. A person who violates any provision of this Chapter by performing an act prohibited or by failing to perform an act required is guilty of a misdemeanor; each day the violation continues shall be a separate offense.
  1. If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required. Such offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents (\$500.00). Although not required, if a culpable mental state

is in fact alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).

2. If the definition of an offense under this Chapter prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

All ordinances and provisions of ordinances of the City of Arlington, Texas, that are in conflict with this Ordinance shall be, and are hereby repealed, and all ordinances and provisions of ordinances not so repealed are hereby retained in full force and effect.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or in direct conflict with federal or state law, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

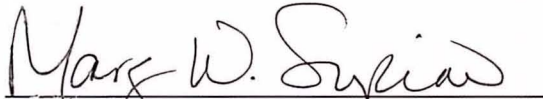
8.

This ordinance shall become effective ten days after first publication.

PRESENTED AND GIVEN FIRST READING on the 15th day of November 2011, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 6th day of December 2011, by a vote of 6 ayes and 2 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
ROBERT N. CLUCK, Mayor

ATTEST:

  
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY 



**Ordinance No. 19-008**

**An ordinance amending the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Articles II, V, and VII; relative to requiring additional notice, and mitigating adverse noise and traffic related nuisances; updating all references from the Department of Community Development and Planning to the Department of Planning and Development Services; updating all references from the Zoning Chapter to the Unified Development Code; providing for a fine of up to \$2,000.00 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date**

- WHEREAS, there has been increased interest in gas drilling and production within the City of Arlington; and
- WHEREAS, the City of Arlington currently requires appropriate zoning for gas drilling and production activities through a requirement of a specific use permit for gas well drilling and the designation of drilling zones as a prerequisite for gas well drilling permits; and
- WHEREAS, the City of Arlington established the “Gas Drilling and Production” Chapter of the Arlington City Code on November 25, 2003, in order to provide a framework for the permitting and regulation of natural gas drilling and production endeavors within the city limits; and
- WHEREAS, on December 20, 2005; October 23, 2007; September 30, 2008; and January 12, 2010, the City Council adopted revisions to the “Gas Drilling and Production” Chapter of the Arlington City Code; and
- WHEREAS, on December 6, 2011, the City Council adopted the last revision of the “Gas Drilling and Production” Chapter of the Arlington City Code; and
- WHEREAS, since the most recent revision of the code, the Texas State Legislature adopted House Bill 40, effective May 18, 2015, which thereby effectively preempted local government jurisdictions from regulating subsurface activities; and
- WHEREAS, the above-referenced statute, now codified in Natural Resources Code Section 81.0523, provides exceptions to the general preemption established therein; and

WHEREAS, these exceptions consist of regulations of activity related to an oil and gas operation that occurs at or near the surface of the ground; and

WHEREAS, the City Council finds that the revisions included herein are commercially reasonable, do not effectively prohibit an oil and gas operation conducted by an otherwise reasonably prudent operator, and are not otherwise preempted by state or federal law; and

WHEREAS, the City Council deems it necessary to revise the “Gas Drilling and Production” Chapter to further protect the health, safety, and welfare of the citizens of the City of Arlington; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “**Gas Drilling and Production**” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended by the amendment of **Article II, Definitions, Section 2.01, Definitions**, by **deleting** the definition of “CD&P” and **adding** the definitions of “P&DS” and “Well servicing rig” to the list of definitions in the section:

***P&DS.*** Planning and Development Services Department.

***Well servicing rig.*** Equipment and machinery assembled primarily for the purpose of any well work involving pulling or running tubulars or sucker rods, to include but not be limited to redrilling, completing, recompleting, workover, and abandoning operations.

Further, **Article V, Gas Well Permits, Section 5.01, Gas Well Permit Required, Subsection E**, is hereby amended by adding the following paragraph to the end of said subsection:

In addition to the notices required above, for all gas well drilling zones within six hundred (600) feet of a protected use, after {insert effective date of ordinance}, the Operator shall give written notice to all residents living within one thousand, three hundred twenty (1,320) feet of a drilling zone no less than five (5) business days before conducting the following operations at a gas well on site: drilling, fracing, flowback, or re-working operations that require the use of a well servicing rig.

Further, **Article V, Gas Well Permits, Section 5.01, Gas Well Permit Required, Subsection F**, is hereby amended by deleting the first paragraph and substituting the following language:

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; provided, however, that said Gas Well Permit is administratively approved.

An initial Gas Well Permit approved concurrently with a new Specific Use Permit or an amended Specific Use Permit establishing a drilling zone shall automatically terminate, unless extended, if drilling is not commenced within two (2) years from the date of the issuance of the initial Gas Well Permit(s). If that gas well has not been drilled within the first year of the term, the Operator shall hold a public meeting with all residents within one thousand, three hundred twenty (1,320) feet of the established drilling zone for the purpose of informing the public of its drilling schedule prior to commencement of drilling.

Further, **Article V, Gas Well Permits, Section 5.03, Gas Well Permit Review Procedure, Subsection D**, is hereby amended by the addition of the second sentence and changing the department reference to P&DS and the Zoning Ordinance to Unified Development Code, so that said subsection reads as follows:

- D. The Gas Well Permit for the initial well(s) for a drill site must be approved by the City Council. After {insert effective date of ordinance}, all initial Gas Well Permits shall be applied for concurrently with an application for a new Specific Use Permit or an amended Specific Use Permit establishing a drilling zone. After the initial well(s) are permitted, any future wells proposed for the same site may be approved by the P&DS Director, provided such future wells are to be drilled on and within the approved drilling zone and no deviations from any standards are requested by the Operator. Any wells proposed to be drilled outside the drilling zone will require an amendment to the approved zoning. In addition, the permits may not amend any site conditions established in the approving SUP.

The P&DS Director may, at their discretion, submit a Gas Well Permit at any stage to the City Council for approval or review if the Operator for the specific site has been convicted of a total of two (2) or more violations of this Chapter or any combination of this chapter, the Unified Development Code or the Fire Code within a twelve- (12) month period.

Further, **Article V, Gas Well Permits, Section 5.03, Gas Well Permit Review Procedure, Subsection G**, is hereby amended to read as follows in its entirety:

- G. 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 Ordinance, the City shall notify each surface owner of property, as shown by the current tax roll, within one thousand, three hundred twenty (1,320) feet of the approved SUP boundary. The notice shall specify the time, date and location of the public hearing. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. Notice shall be sent to all registered neighborhood associations within one mile of the proposed drill site.

Further, Article VII, On Site and Technical Regulations, Section 7.01, Technical Regulations, Subsection A, On site Requirements, Paragraph 6, is hereby amended with the addition of the following paragraph:

After {insert effective date of ordinance}, all Operators of pad sites located within six hundred (600) feet of a protected use must submit a dust mitigation plan to the City, at the time of SUP application or gas well permit application, whichever comes first. The dust mitigation plan shall include a private road and pad site watering schedule as well as alternatives, such as, but not limited to, the application of calcium chloride or asphalt. Failure of the Operator or its agents to comply with the approved schedule may result in a violation of this Chapter and the subsequent requirement and implementation of more permanent solutions, such as chip sealing and the complete replacement of worn caliche.

Further, Article VII, On Site and Technical Regulations, Section 7.01, Technical Regulations, Subsection A, On site Requirements, Paragraph 16, is hereby amended to read as follows in its entirety:

16. **Gas lift compressor.** Any onsite compressor used to ‘lift gas’ shall be designed to comply with the noise requirements of this Ordinance.

Electric gas lift compressors are preferred. However, if other gas lift compressors are utilized and located in drilling zones located within six hundred (600) feet of a protected use, they must be buffered from residential protected uses by an acoustical structure of metal, masonry or other approved material. A four-wall encasement is preferred. Other sound buffering methods may be approved by the Director of Planning and Development Services, if the buffering is oriented in a way that redirects sound from the surrounding residential protected uses.

Further, Article VII, On Site and Technical Regulations, Section 7.01, Technical Regulations, Subsection A, On site Requirements, Paragraph 23, is hereby amended to read as follows in its entirety:

23. **Rigs.** Electric rigs must be utilized for drilling a well located within six hundred (600) feet of a protected use, unless approved in advance by the Director of Planning and Development Services after submission in writing of a compelling reason to use an alternative rig.

Further, Article VII, On Site and Technical Regulations, Section 7.01, Technical Regulations, Subsection D, Vehicle Routes for Gas Well Permit, is hereby amended to add a new paragraph, numbered 4., that shall read as follows:

4. After {insert effective date of ordinance}, all operators shall submit an off-site truck staging plan, along with their gas well permit application, to coordinate the order of vehicles and machinery arriving and remaining at the well site. The use of residential streets for off-site truck staging is prohibited.

Further, **Article VII, On Site and Technical Regulations, Section 7.01, Technical Regulations, Subsection F, Noise Restrictions for Gas Well Permit, paragraph 5**, is hereby amended to read as follows:

5. The exterior noise level generated by operations shall not exceed the pre-drilling ambient noise level by more than the levels shown in the following table:

<b>Operation</b>	<b>Daytime Hours</b>	<b>Nighttime Hours</b>
Drilling or re-drilling	Four (4) decibels	Two (2) decibels
Fracing	Seven (7) decibels	N/A
Flowback	Five (5) decibels	Three (3) decibels
Production	Zero (0) decibels	Zero (0) decibels

Further, **Article VII, On Site and Technical Regulations, Section 7.01, Technical Regulations, Subsection F, Noise Restrictions for Gas Well Permit**, is hereby amended with the addition of a new paragraph, numbered **11.**, that shall read as follows:

11. After {insert effective date of ordinance here} on all gas well sites located within six hundred (600) feet of a protected use, in the event the gas well site has two or more confirmed noise violations of this Chapter, the Operator of said gas well site shall thereafter be required to install sound walls prior to conducting any re-working operations that require the use of a well-servicing rig on site. This additional noise mitigation requirement shall continue for the operational life of the gas well drill site.

Further, that all references throughout the **“Gas Drilling and Production”** Chapter of the Code of the City of Arlington, Texas, 1987, to the **“Department of Community Development and Planning”** are hereby substituted to read as the **“Department of Planning and Development Services”**. All references to the **“Director of Community Development and Planning”** are hereby substituted to read as the **“Director of Planning and Development Services”**. All references to **“CD&P”** are hereby substituted to read as **“P&DS”**.

Further, that all references throughout the **“Gas Drilling and Production”** Chapter of the Code of the City of Arlington, Texas, 1987, to the **“Zoning Ordinance”** are hereby substituted to read as the **“Unified Development Code”**.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00)

for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.


7.

The caption and penalty of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication.

PRESENTED AND GIVEN FIRST READING on the 19th day of February, 2019, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 19th day of March, 2019, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
W. JEFF WILLIAMS, Mayor

ATTEST:

  
ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:  
TERIS SOLIS, City Attorney

BY 

**Ordinance No. 19-031**

**An ordinance amending the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article VII, relative to external setback requirements; providing for a fine of up to \$2,000.00 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date**

- WHEREAS, the City of Arlington currently requires appropriate zoning for gas drilling and production activities through a requirement of a specific use permit for gas well drilling and the designation of drilling zones as a prerequisite for gas well drilling permits; and
- WHEREAS, the City of Arlington established the “Gas Drilling and Production” Chapter of the Arlington City Code on November 25, 2003, in order to provide a framework for the permitting and regulation of natural gas drilling and production endeavors within the city limits; and
- WHEREAS, on December 20, 2005, October 23, 2007, September 30, 2008, January 12, 2010, and December 6, 2011, the City Council adopted revisions to the “Gas Drilling and Production” Chapter of the Arlington City Code; and
- WHEREAS, the Texas State Legislature adopted House Bill 40, effective May 18, 2015, which thereby effectively preempted local government jurisdictions from regulating subsurface activities; and
- WHEREAS, the above-referenced statute, now codified in Natural Resources Code Section 81.0523, provides exceptions to the general preemption established therein; and
- WHEREAS, these exceptions consist of regulations of activity related to an oil and gas operation that occurs at or near the surface of the ground; and
- WHEREAS, the City Council finds that the revisions included herein are commercially reasonable, do not effectively prohibit an oil and gas operation conducted by an otherwise reasonably prudent operator, and are not otherwise preempted by state or federal law; and
- WHEREAS, on March 18, 2019, the City Council adopted the last revision of the “Gas Drilling and Production” Chapter of the Arlington City Code, and made amendments related to noise, traffic, and public notice; and
- WHEREAS, the City Council considered amending the process of reducing the minimum external setback from a drilling zone boundary to a protected use; and



WHEREAS, the City Council elected to postpone amending said external setback requirements and a town hall meeting was conducted to receive additional public comment on the issue; and

WHEREAS, the City Council deems it necessary to revise the “Gas Drilling and Production” Chapter to further protect the health, safety, and welfare of the citizens of the City of Arlington; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “**Gas Drilling and Production**” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended by the amendment of **Article 7, On Site and Technical Regulations, Section 7.01, Technical Regulations, Subsection B, Well Setbacks, Paragraph 1, External setbacks, Subparagraph a.** is hereby amended to read as follows:

- a. It shall be unlawful to drill any well that, at the surface of the ground, is located within six hundred (600) feet from a park or within six hundred (600) feet from a protected use for which a building permit has been issued on or before the date of the application for a drilling permit. The distance shall be calculated from the boundary of the drilling zone, in a straight line, without regard to intervening structures or objects, to the primary structure of the protected use or public park boundary.
  - (1) This setback distance may be reduced by the City Council to not less than three hundred (300) feet upon the affirmative vote of not less than a super-majority of seven (7) members of the City Council. Petitions in support or opposition to the setback distance reduction must be submitted to the City at least one (1) business day prior to the date of the City Council public hearing. In the event the public hearing is continued, additional petitions may be submitted until one (1) business day prior to the date at which the hearing is continued.
  - (2) For protection of the public health, safety and welfare, the City Council may impose additional requirements for a reduction of such distance, and take into account the presence of natural or man-made barriers.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(2)

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.


7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective on June 1, 2019.

PRESENTED AND GIVEN FIRST READING on the 7th day of May, 2019, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 21<sup>st</sup> day of May, 2019, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
W. JEFF WILLIAMS, Mayor

ATTEST:

  
ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:  
TERIS SOLIS, City Attorney

BY



ARLINGTON

**Ordinance No. 21-012**

**An ordinance amending the “Gas Drilling and Production” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article II, Section 2.01, by the addition of the definition of "Daycare" and the amendment of the definition of "Drilling Zone"; and Article VII, relative to external setback requirements; providing for a fine of up to \$2,000.00 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date**

- WHEREAS, the City of Arlington currently requires appropriate zoning for gas drilling and production activities through a requirement of a specific use permit for gas well drilling and the designation of drilling zones as a prerequisite for gas well drilling permits; and
- WHEREAS, the City of Arlington established the “Gas Drilling and Production” Chapter of the Arlington City Code on November 25, 2003, in order to provide a framework for the permitting and regulation of natural gas drilling and production endeavors within the city limits; and
- WHEREAS, on December 20, 2005, October 23, 2007, September 30, 2008, January 12, 2010, December 6, 2011, and March 18, 2019, the City Council adopted revisions to the “Gas Drilling and Production” Chapter of the Arlington City Code; and
- WHEREAS, the Texas State Legislature adopted House Bill 40, effective May 18, 2015, which thereby effectively preempted local government jurisdictions from regulating subsurface activities; and
- WHEREAS, the above-referenced statute, now codified in Natural Resources Code Section 81.0523, provides exceptions to the general preemption established therein; and
- WHEREAS, these exceptions consist of regulations of activity related to an oil and gas operation that occurs at or near the surface of the ground; and
- WHEREAS, the City Council finds that the revisions included herein are commercially reasonable, do not effectively prohibit an oil and gas operation conducted by an otherwise reasonably prudent operator, and are not otherwise preempted by state or federal law; and
- WHEREAS, on May 21, 2019, the City Council adopted the last revision of the “Gas Drilling and Production” Chapter of the Arlington City Code, and made amendments related to reasonable setbacks; and

WHEREAS, the City Council finds it necessary to revise the “Gas Drilling and Production” Chapter to further protect the health, safety, and welfare of the citizens of the City of Arlington; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “**Gas Drilling and Production**” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended by the amendment of **Article II, Definitions, Section 2.01, Definitions**, with the addition of a new definition entitled “**Day Care**” to be inserted after “**Completion**” and the same shall read as follows:

***Day Care.*** A facility licensed by the state and the city that provides care, training, education, custody, treatment or supervision for more than six children under 14 years of age, and for less than 24 hours per day, with a city-issued Certificate of Occupancy.

Further, that **Section 2.01, Definitions**, is hereby amended so that the definition of **Drilling Zone** shall hereafter read as follows:

***Drilling Zone.*** The area approved by the City Council that encloses all the wells on the drill site. In the existing drill sites that do not yet have a Drilling Zone approved by Council, any regulation in this code requiring a distance measurement from a protected use to a drilling zone shall instead be measured from a protected use to the closest existing gas wellhead.

Further, that **Article VII, On Site and Technical Regulations, Section 7.01, Technical Regulations, Subsection B, Well Setbacks, Subsection 1, External Setbacks, Paragraph a.**, is hereby amended to read as follows:

- a. It shall be unlawful to drill any well outside a drilling zone approved by the City Council that, at the surface of the ground, is located within six hundred (600) feet from a park or within six hundred (600) feet from a protected use for which a building permit has been issued on or before the date of the application for a drilling permit. The distance shall be calculated from the boundary of the drilling zone, in a straight line, without regard to intervening structures or objects, to: (i) the boundary of the public park; (ii) the primary structure of a day care or the boundary of the area designated by the day care for use as a playground, whichever is closest; and (iii) the primary structure of all other protected uses.

- (1) This setback distance may be reduced by the City Council to not less than three hundred (300) feet upon the affirmative vote of not less than a super-majority of seven (7) members of the City Council. Petitions in support or opposition to the setback distance reduction must be submitted to the City at least one (1) business day prior to the date of the City Council public hearing. In the event the public hearing is continued, additional petitions may be submitted until one (1) business day prior to the date at which the hearing is continued.
- (2) For protection of the public health, safety and welfare, the City Council may impose additional requirements for a reduction of such distance, and take into account the presence of natural or man-made barriers.

Further, that **Article VII, On Site and Technical Regulations, Section 7.01, Technical Regulations, Subsection B, Well Setbacks**, is hereby amended to add **Subsection 3, Reverse Setbacks**, and the same shall read as follows:

**3. Reverse Setbacks**

- a. Pursuant to the Fire Prevention Chapter, buildings with an occupancy in Group A, E or I shall not be established within 300 feet of an existing drilling zone or gas well.
- b. Pursuant to the Unified Development Code, a residential structure shall not be established within 300 feet of an existing drilling zone or gas well.
- c. A day care, as defined in Article 2, and otherwise an allowed use under Article 3 of the Unified Development Code, and its outside playground area, shall not be established within 300 feet of an existing drilling zone or gas well.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent

(3)

or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.


7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective on May 1, 2021.

PRESENTED AND GIVEN FIRST READING on the 30th day of March, 2021, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 13th day of April, 2021, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
\_\_\_\_\_  
W. JEFF WILLIAMS, Mayor

ATTEST:

  
  
\_\_\_\_\_  
ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:  
TERIS SOLIS, City Attorney

BY   
\_\_\_\_\_

ARLINGTON<sup>SM</sup>