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**ARTICLE XVIII. - OIL AND GAS DRILLING AND PRODUCTION** **[56]**

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### **Sec. 7-601. - Purpose.**

The exploration, development, and production of oil and 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 article to establish reasonable and uniform limitations, safeguards and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of oil and gas and other substances produced in association with oil and gas within the city to protect the health, safety and general welfare of the public; minimize the potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources.

*(Ord. No. 3673-05-2009, § 1, 5-4-09)*

### **Sec. 7-602. - Definitions.**

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

*Ambient noise level* means 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* 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 or habitable building* means any structure used or intended for supporting or sheltering any use or occupancy. The term "building" shall be construed as if followed by the words "or portions thereof."

*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.

*City* means the City of Lewisville.

*City Code* means the Code of Ordinances of the City of Lewisville.

*City attorney* means the City Attorney of the City of Lewisville.

*Closed loop mud system* means a system utilized while drilling so that reserve pits are not used and instead steel bins are used to collect all drilling waste.

*Commission* means the Texas Railroad Commission.

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

*Compressor station* means a site and associated buildings and equipment utilized to increase the pressure of natural gas for delivery into a transportation system or other use.

*Daytime* means the period from 7:00 am to 7:00 pm.

*Decibel (db)* means a unit for measuring the intensity of a sound/noise and is equal to ten times the logarithm to the base 10 of the ratio of the measured sound pressure squared to a reference pressure which is 20 micropascals.

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

*Drilling* means digging or boring a new well for the purpose of exploring for, developing or producing oil, 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.

*Drilling operations* means drilling with drill pipe and bit, running casing, circulating mud and fluids, tripping tools and setting production casing/tubing.

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

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

*Fire code* means the currently adopted International Fire Code with approved local amendments.

*Fire department* means the Fire Department of the City of Lewisville.

*Flowback* means the process of flowing a completed/fractured well for the purpose of recovering water and residual sand from the gas stream prior to sending gas down a sales line.

*Fracture or fracturing* means the process of fracture stimulation of a rock formation.

*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 production facility* means a site, building, structure, or facility, including gas pads and wells, related to the production, processing, or transportation of natural gas.

*Gas stream analysis report* means a report listing all compounds detected and at what levels, all compounds issued from a gas well.

*Inspector* means the oil and gas inspector or inspectors designated by the City Manager of Lewisville, including city staff or technical advisory consultants.

*Nighttime, or non-daylight time*, means the period between 7:00 p.m. and 7:00 a.m.

*Oil and gas well* means any well drilled, to be drilled, or used for the intended or actual production of oil or natural gas. The terms "oil" or "gas" used in this article shall be interchangeable and shall mean either an oil well or gas well operation.

*Operator* means, for each well, the person listed on the railroad commission form W-1 or form P-4 for an oil or 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 an oil or gas lease of any premises affected by the provisions of this article, then such lessee shall also be deemed to be an operator. In the event that there is no oil or gas lease relating to any premises affected by this article, the owner of the fee mineral estate in the premises shall be deemed an operator.

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

*Pad site* means the fenced operations area containing the well or wells and accessory buildings and equipment.

*Park* means any land area owned by the city, state, federal government or home owners association dedicated for traditional park-like recreational purposes.

*Permit* means the permit required by the City of Lewisville for any proposed well.

*Person* means both the singular and the plural and means a natural person, a corporation, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind.

*Protected use* means a habitable building, including but not limited to a residence, retail building, office, warehouse, religious institution, public building, hospital building, or school. Structures such as equipment buildings, pump houses and agricultural barns that are occupied on a daily basis for less than four hours each day shall not be considered a protected use. All parks shall be considered a protected use.

*Public building* means all buildings used or designed to and intended to be used for the purpose of assembly of persons for such purposes as deliberation, entertainment, amusement, or health care. Public buildings include, but shall not be limited to, theaters, assembly halls, auditoriums, armories, mortuary chapels, dance halls, exhibition halls, museums, gymnasiums, bowling lanes, libraries, skating rinks, courtrooms, restaurants, hospitals.

*Redrill* means recompletion of an existing well by deepening or sidetrack operations extending more than 150 feet from the existing well bore.

*Religious institution* means any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

*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 an oil or gas well permit is filed with the oil and gas inspector.

*Reworking* means recompletion or reentry of existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than 150 feet from the existing well bore, or replacement of well liners or casings.

*Right-of-way* means public rights-of-way including streets, easements and other property within the city and which is dedicated to the use and benefit of the public.

*School* means any public and private, primary and secondary educational facilities providing education up through and including the twelfth grade level and any licensed day care centers, meaning a facility licensed by the State of Texas or by the City of Lewisville 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.

*Street* means any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way.

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

*Technical advisor* means such person(s) familiar with and educated in the oil or gas industry or the law as it relates to oil or 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 oil, gas, or liquid hydrocarbon.

*Workover operation* means work performed on or in a well after its completion in an effort to secure production where there has been none, restore production that has ceased or increase production.

(Ord. No. 3673-05-2009, § 1, 5-4-09; Ord. No. 3869-06-2011, § 1, 6-6-11)

### **Sec. 7-603. - Oil and gas inspector.**

- (a) The city manager shall designate an oil and gas inspector who shall enforce the provisions of this article. The oil and gas inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this article and its particular provisions. Failure of any person to comply with any such order or directive shall constitute a violation of this article. The oil and gas inspector may be a city staff member or may be provided or supplemented by an agent for the city.
- (b) The oil and gas inspector shall have the authority to enter and inspect any premises covered by the provisions of this article to determine compliance with the provisions of this article and all applicable laws, rules, regulations, standards or directives of the state. Failure of any person to permit access to the oil and gas inspector shall constitute a violation of this article. The oil and gas inspector shall conduct periodic inspections at least once a year 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 article and all regulations of the commission.
- (c) The oil and gas inspector shall have the authority to request and receive any records, including any records sent to the 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 oil or gas well permit. Failure of any person to provide any such requested material shall be deemed a violation of this article.

(Ord. No. 3673-05-2009, § 1, 5-4-09)

### **Sec. 7-604. - 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 article may be served in person or by registered or certified mail. Every operator so designating such agent shall within ten days notify the oil and gas inspector in writing of any change in such agent or such mailing address unless operations within the city are discontinued.

(Ord. No. 3673-05-2009, § 1, 5-4-09)

### **Sec. 7-605. - Oil or gas well permit required.**

- (a) A person wanting to engage in and operate in oil or gas production activities shall apply for and obtain an oil or gas well permit from the city. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, reworking, fracturing or operation of any such well or to conduct any activity related to the production of oil or gas without first obtaining an oil or gas well permit issued by the city in accordance with this article.

Such activities include, but are not limited to reworking, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing. A permit shall be required for seismic surveys.

- (b) The operator must apply for and obtain an oil or gas well permit for the drilling, reworking, deepening, reentering, activating or converting of each well.
- (c) An oil or gas well permit shall not constitute authority for the reentering and drilling of an existing or abandoned well. An operator shall obtain a new oil or gas well permit in accordance with the provisions of this article if the operator is reentering and drilling an abandoned well.
- (d) When an oil or gas well permit has been issued to the operator for the drilling, reworking, deepening, reentering, activating or converting of a well, such oil or gas well permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, repair, reworking, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well, provided, however, that a new or supplemental permit shall be obtained before such well may be reworked for purposes of reworking, 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 rework a permitted well using a drilling rig, to fracture stimulate a permitted well after initial completion or to conduct seismic surveys or other exploration activities shall give written notice to the oil and gas inspector no less than 15 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. A sign will also be posted 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. Information on the sign shall be legible from the nearest roadway.

The following requirements shall apply to all fracture stimulation operations performed on a well within 800 feet of residence 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 exempt from work hour restrictions, but shall be subject to compliance with noise restrictions contained in this article;
  - (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.
- (f) An oil or gas well permit shall automatically terminate, unless extended, if drilling is not commenced within 180 days from the date of the issuance of the oil or gas well permit. Drilling must commence within 180 days from the date of the issuance of the oil or gas well permit in order to maintain the validity of the oil or gas well permit. An oil or gas well permit may be extended by the oil and gas inspector for an additional 180 days upon request by the operator and proof that the engineering site plan for the requested oil or gas well permit for such location has not changed.
  - (g) The oil or gas well permits required by this article are in addition to and are not in lieu of any permit which may be required by any other provision of this Code or by any other governmental agency.
  - (h) No additional oil or gas well permit or filing fees shall be required for:
    - (1)

Any wells, existing, previously permitted or approved by the city, within the corporate limits of the city on the effective date of this article; or

- (2) Any wells which drilling has commenced on the effective date of this article; or
  - (3) Any wells in existence or on any wells on which drilling has commenced on land annexed into the city after the effective date of this article; or
  - (4) Any well that was planned for the land before the 90th day before the effective date of its annexation and one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for such well and the completed application for the initial authorization was filed before the date the annexation proceedings were instituted.
- (i) No oil or gas well permit shall be issued for any well to be drilled within any floodway as defined by the most current FEMA map, without the prior consent of the city council.
  - (j) Oil and gas well permits may be issued on property located in a floodplain, provided that all water and drilling materials must be in steel containers except for the concrete pad. No reserve pits shall be allowed in the floodplain. An engineer's certificate shall be provided showing no negative impact on water flow in the floodplain.
  - (k) No oil or gas well permit shall be issued for any well to be drilled on city owned property without the prior consent of the city council.
  - (l) By acceptance of any oil or gas well permit issued pursuant to this article, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this article. The terms of this article shall be deemed to be incorporated in any oil or gas well permit issued pursuant to this article with the same force and effect as if this article was set forth verbatim in such oil or gas well permit.

*(Ord. No. 3673-05-2009, § 1, 5-4-09)*

### **Sec. 7-606. - Oil or gas well permit application and filing fees.**

- (a) Every application for an oil or gas well permit issued pursuant to this article shall be in writing signed by the operator, or some person duly authorized to sign on his behalf, and filed with the City of Lewisville.
- (b) Every application shall be accompanied by a permit fee of \$10,000.00 per well.
- (c) The application shall include the following information:
  - (1) The date of the application and type or types of oil or gas well permit requested.
  - (2) An accurate legal description of the lease property to be used for the oil or gas operation, the parcel and the production unit and name of the geologic formation as used by the commission. Property recorded by plat should reference subdivision, block and lot numbers.
  - (3) Map showing proposed transportation route and road for equipment, chemicals or waste products used or produced by the oil or gas operation.
  - (4) Proposed well name.
  - (5) Surface owner names(s) and address(es) of the lease property.
  - (6) Mineral lessee name and address.
  - (7) Operator/applicant name and address and if the operator is a corporation, the state of incorporation, and if the operator is a partnership, the names and addresses of the general partners.
  - (8) Name and address of individual designated to receive notice.
  - (9) Name of representative with supervisory authority over all oil or gas operation site activities and a 24-hour phone number.

- (10) Location and description of all improvements and structures within 800 feet of the well.
- (11) Owner and address of each parcel of property within 800 feet of the proposed drill site.
- (12) 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. The site plan shall include all existing utilities, public roadways, driveways, alleys and all public access points.
- (13) The name, address and 24-hour phone number of the person to be notified in case of an emergency.
- (14) The exact and correct acreage and number of wells, if applicable, included in the oil or gas well permit application.
- (15) Copies of all reports required by the commission.
- (16) A signed road usage and damage remediation agreement to compensate the city for the allowed use of city roadways and rights-of-way, including reimbursement for reasonable anticipated maintenance and damage remediation of city roadways and/or rights-of-way caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, and operation of oil or gas wells.
- (17) A description of public utilities required during drilling and operation.
- (18) A description of the water source to be used during drilling.
- (19) Noise management plan.
- (20) A copy of the approved 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 five days prior to the commencement of any onsite activity.
- (22) A copy of the determination by the Texas Commission on Environmental Quality (TCEQ) of the depth of useable quality ground water.
- (23) Evidence of insurance and security requirements under this article.
- (24) A statement, under oath, 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 oil or gas well permit fees.
- (26) An emission control/reduction plan.
- (27) A description of how water used during the operations will be stored, removed and disposed of.

(Ord. No. 3673-05-2009, § 1, 5-4-09; Ord. No. 3809-10-2010, § 1, 10-4-10)

## **Sec. 7-607. - Oil or gas well permits; process.**

- (a) *Permit required.*
  - (1) An oil or gas well permit shall be required for all proposed wells.
  - (2) A public hearing for an oil or gas well permit shall be required if the proposed well is to be located within 800 feet of a protected use. This provision applies to any protected building, including but not limited to, a residence, religious institution, public building, hospital building or school for which a building permit has been issued on the date the application for a permit is filed with the oil and gas inspector. In addition, a public hearing for an oil or gas well permit shall be required if the proposed well is to be located within 800 feet of a property line of a park. Oil or gas wells located more than



800 feet from such uses may be approved by the gas inspector without a public hearing. For the purpose of such an oil or gas well permit the measurement of the 800-foot distance shall be made from the closest edge or plane of permanent equipment that could pose a health or safety risk, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building or nearest park property line.

- (b) *Application requirements.* An application for an oil or gas well permit shall include the following information:
- (1) A detailed site plan that includes all the information required in [section 1-6](#), but also 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.
- (c) *Permitting procedure.*
- (1) After a complete permit application is submitted, the oil and gas inspector shall evaluate the public impact of the proposed activity. The oil and gas inspector shall consider the proposed site and the proposed operations or drilling program and shall identify restrictions or conditions, including minimum separation distance for drilling or other operations, special safety equipment and procedures, noise reduction levels, screening and any other requirements the oil and gas inspector deems appropriate. If the proposed well or wells are located more than 800 feet from a protected use for which a building permit has been issued on the date the application for a permit is filed with the oil and gas inspector, the Inspector may, consistent with state law, accept, reject or modify the application in the interest of securing compliance with this article, this Code and/or to protect the health, safety and welfare of the community. An applicant may appeal a decision of the oil and gas inspector to the city council.
  - (2) Applications for a proposed well or wells that are located 800 feet or less from a protected use as measured from the closest edge or plane of permanent equipment that could pose a health or safety risk to a protected use, for which a building permit has been issued on the date the application for a permit is filed with the oil and gas inspector, shall require a public hearing following a review by the inspector. Within 45 days of receipt of a complete application, the oil and gas 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 45-day period shall not begin to run until the applicant/operator has provided the oil and gas inspector with a complete application package.
    - a. At least 15 days, and no more than 30 days prior to the date of the public hearing before the city council for an oil or gas well permit under this article, operator shall notify, at operator's expense, each surface owner of property, as shown by the current tax roll, within 800 feet of the proposed well use as measured from the closest edge or plane of permanent equipment that could pose a health or safety risk to a protected use, not owned by or under surface lease to the operator and the hearing place, date and time. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. The operator shall file an affidavit with the oil and gas inspector showing the name and last known address, as identified by the current tax roll, of each owner of property to whom notice was mailed and the names of each owner of property to whom notice is required to be given, but whose address is unknown.
    - b.

At least 15 days prior to the date of the public hearing before the city council for an oil or gas well permit under this article the operator shall, at operator's expense, erect at least one sign, no less than three feet by three feet, upon the premises upon which an oil or 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 an oil or gas well permit to drill for oil or gas has been requested and that additional information can be acquired by telephoning the applicant/operator or the City of Lewisville at the numbers 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 article.
3. Any sign(s) shall be removed within ten days of final action by the city council.

c. At least 15 days, and no more than 20 days prior to the date of the public hearing before city council for an oil or gas well permit under this article, operator shall publish a copy of the notice as outlined below, at operator's expense, in one issue of the legal newspaper of the city. An affidavit by the printer or publisher of the newspaper indicating publication of the notice shall be filed with the application and will be prima facie evidence of such publication. The notice shall read as follows:

"Notice is hereby given that, acting under and pursuant to the Ordinances of the City of Lewisville, Texas, on the \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ day of, \_\_\_\_\_, 20\_\_\_\_\_, \_\_\_\_\_, filed with the oil and gas inspector of the City of Lewisville, an application for an oil or gas well permit to drill, complete and operate a well for oil or gas upon property located at \_\_\_\_\_, \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ County, Lewisville, 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 151 West Church Street, Lewisville, Texas."

- d. All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section and are in addition to other notices which may otherwise be required.
- e. After a permit application is submitted, the oil and gas inspector shall evaluate the public impact of the proposed activity. The oil and gas 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 oil and gas inspector deems appropriate. The

recommendations shall be submitted to the city council for consideration prior to the public hearing.

- f. Prior to the public hearing and before the city council considers the merits of the application and the recommendations of the gas 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 article and that the applicant/operator has otherwise complied with or satisfied all other requirements of this article, including full and complete compliance with the insurance and security requirements.
  - g. The burden of proof on all matters considered in the hearing shall be upon the applicant/operator.
  - h. The city council shall review the application and any other related information and shall consider the following in deciding whether to grant an oil or 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 oil or gas well permit conditions to be imposed;
    - 5. Whether there is sufficient access for the city fire personnel and firefighting equipment; and
    - 6. The recommendations of the oil and gas inspector.
    - 7. Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the oil or gas well permit conditions are reasonable and justified, balancing the following factors:
      - (i) The right of the owners(s) of the mineral estate to explore, develop, and produce the minerals; and
      - (ii) The availability of alternative drill sites.
  - i. 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 this article, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.
  - j. The city council may, consistent with state law, accept, reject or modify the application in the interest of securing compliance with this article, the City Code of Ordinances and/or to protect the health, safety and welfare of the community.
- (d) **Setbacks.** Except as otherwise provided in this section, it shall be unlawful to drill any well, where the closest edge or plane of permanent equipment that could pose a health or safety risk to a protected use, at the surface of the ground, is located:
- (1) Within 25 feet from any outer boundary line; or
  - (2) Within 25 feet from any storage tank, or source of ignition. Tanks must also be at least 100 feet from any protected use or combustible structure; or
  - (3) Within 75 feet of any public street, road, highway or future street, right-of-way, public property line, or railroad right-of-way; or
  - (4) Within 500 feet from any protected building used, or designed and intended to be used,

for human occupancy; or

Except as otherwise provided in this article, it shall be unlawful to drill any well, where the closest edge or plane of permanent equipment that could pose a health or safety risk is located within 500 feet of a protected use. This provision applies to any park property line or protected building, including but not limited to, a residence, religious institution, public building, hospital building or school for which a building permit has been issued on the date the application for a permit is filed with the oil and gas inspector. For the purpose of an oil or gas well permit the measurement of the 500-foot distance shall be made from the closest edge or plane of permanent equipment that could pose a health or safety risk, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building or nearest park property line.

This setback distance may be reduced by the city council to less than 500 feet, but not less than 300 feet, from a protected use only when there is the unanimous consent of the property owners with a protected use located within a 500-foot radius around said well and the affirmative vote of not less than three-fourths of all the members of the city council. For the purpose of an oil and gas well permit the measurement of the 500-foot distance shall be made from the closest edge or plane of permanent equipment that could pose a health or safety risk, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building or nearest park property line. For protection of the public health, safety and welfare, the city council may impose additional requirements for a reduction of such distance.

- (5) Within 100 feet of any building accessory to, but not necessary to the operation of the well; or
- (6) Within 300 feet to any state registered fresh water well. The measurement shall be in a direct line from the closest edge or plane of permanent equipment that could pose a health or safety risk to the fresh water well bore.

It shall be unlawful to drill any oil or gas well, where the closest edge or plane of permanent equipment that could pose a health or safety risk to a protected use, at the surface of the ground, is located within 300 feet of any existing fresh water well, except for fresh water wells used solely for operation of the oil or gas well operation. The measurement shall be in a direct line from the closest edge or plane of permanent equipment that could pose a health or safety risk to the fresh water well bore. The reduction of the distance requirement, if requested, for fresh water wells is subject to the railroad commission regulations and any other state or federal requirements.

The operator of an oil or gas well shall provide the oil and gas inspector with a "pre-drilling" and "post-drilling" water analysis from any fresh water well within 800 feet of the oil or gas well.

Within 180 days of its completion date, each oil or gas well shall be equipped with a cathodic protection system to protect the production casing from external corrosion. The oil and gas inspector may approve an alternative method of protecting the production casing from external corrosion.

- (7) 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 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 commission, then such vent or open flame shall not be located closer than 800 feet from any protected use 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. Venting

operations shall be required to comply with the noise regulations contained in this article.

Unless otherwise specifically stated, setback distances shall be calculated from the closest edge or plane of permanent equipment that could pose a health or safety risk, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any object listed in subsections (d)(1) through (7) above.

(e) *Fencing for oil or gas well permit.*

(1) Chain link fencing material of dark green color or black color shall surround the entire drill site area as determined by the oil and gas inspector with a minimum of eight feet but not to exceed ten feet in height and shall enclose all completed wells and tanks located within an oil or gas well permit area. The color of all fences shall be the same throughout the pad site.

Gate and other fencing requirements as outlined in this article shall also be required. Access to all gates must be provided to the oil and gas inspector, such as providing the combination to the locks or using a lock provided by the city.

(f) *Landscaping.* A plan for landscaping and irrigation as well as a tree survey shall be provided with the drilling permit. Landscaping and irrigation shall be required as determined by the oil and gas inspector along all sides of the well site with suitable screening done via a combination of trees and shrubs that complement the natural character of the surrounding neighborhood. Measures should be in place to cease irrigation once the trees and shrubs are established and shall not be less than two years. The landscaping, within two years should characterize a natural visual effect and combined, provide screening of the pad site at line of site within 100 feet.

All landscaping shall be installed within 30 days of the beginning of the pad site construction; provided however, that this time may be extended when necessary, as determined by the city, but the extension shall not exceed 12 months from date of permit issuance. Moreover, when, in the opinion of the city, a site is remote from public view and/or protected uses and the landscape buffer is not needed for visual screening, a contribution to the city's beautification fund in the amount of the cost of the landscape buffer may be made in lieu of installation of the landscape buffer.

The following tree preservation and planting measures are required:

- (1) The minimum 30-foot landscape buffer outside the pad site shall contain a tree canopy and shrubbery combination equal to no less than 35 percent of the area (square footage) of the pad site. Existing trees within the buffer may be included as part of the required canopy except for mesquite trees. The following requirements apply to all oil and gas permits.
  - a. A minimum retention of 75 percent of the existing trees will be required within the landscape buffer unless removal is necessary for location of equipment as determined by the gas inspector. No more than 25 percent of the existing tree canopy may be removed from the landscape buffer. The fees for removal of protected trees shall not apply to trees removed as part of this 25 percent maximum.
  - b. No more than 25 percent of the same species may be planted at one site.
  - c. A minimum of 25 percent of the planted trees must be an evergreen species; and
  - d. The 35 percent canopy coverage is established by the actual canopy coverage area retained, except for mesquite trees, and the typical mature canopy of newly planted trees.
  - e. The minimum size of tree planted will be three inches in diameter measured one foot above ground level. If the tree is multi trunk, the main stem will be given full

credit for its diameter and all other stems will receive one-half credit. The total of all must be three inches or greater. All planted trees will be credited its canopy coverage at normal grow out.

- f. All trees that die within two years of the date of project completion will be replaced by another replacement tree. The replacement tree carries the same two-year replacement requirement. A replacement of any tree that dies within two years of planting will be replaced by the operator or agent and new two-year guarantee will begin at the time of replacement.
- (g) All other interpretations of the tree canopy coverage and regulations will be made by the city.
- (1) The following list of trees is considered desirable and adapted trees for the Lewisville area. Planting of trees from this list is acceptable. Other trees will be considered by the city and granted on a case-by-case basis. The approval of additional species will be judged on adaptability, long-term health and growing characteristic of the tree type.

Common Name	Scientific Name	Canopy Size
Redbud	<i>Cercis Canadensis</i>	Small
Mexican Plum	<i>Prunus Mexicana</i>	Small
Cherry Laurel	<i>Prunus Caroliniana</i>	Medium
Eve's Necklace	<i>Sophora Affinis</i>	Medium
Crab Apple	<i>Malus Angustifolia</i>	Medium
Bradford Pear	<i>Pyrus Calleryana</i> var. Bradford	Medium
Golden Raintree	<i>Koelrueteria Paniculata</i>	Medium
Cado Maple	<i>Acer Saccharum</i>	Large
Red Maple	<i>Acer Rubrum</i>	Large
Bigtooth Maple	<i>Aces Grandidentatum</i>	Large
Bur Oak	<i>Quercus Macrocrapa</i>	Large
Chinquapin Oak	<i>Quercus Muhlenbergii</i>	Large
Live Oak	<i>Quercus Virginiana</i>	Large
Shumard Red Oak	<i>Quercus Shumardii</i>	Large
Texas Red Oak	<i>Quercus Texana</i>	Large
Post Oak	<i>Quercus Stallata</i>	Large
Blackjack Oak	<i>Quercus Marilandica</i>	Large
Pecan	<i>Carya Illinoensis</i>	Large
Lacebark Elm	<i>Ulmas Parvifolia</i>	Large
Cedar Elm	<i>Ulma Crassifolia</i>	Large
American Elm	<i>Ulmas Americana</i>	Large
Bald Cypress	<i>Taxodium Distichum</i>	Large
Black Walnut	<i>Carya Nigra</i>	Large
Green Ash	<i>Fraxinus Pennsylvanica</i>	Large
Texas Ash	<i>Fraxinus</i>	Large
Southern Magnolia	<i>Magnolia Grandiflora</i>	Large

- (2) The clear cutting of trees is prohibited within the city. Cutting of trees, grading and land clearing may be done, for oil and gas well drilling pad sites, in accordance with the approved site plan. The existing natural landscape character of the pad site shall be preserved to the exterior perimeter as outlined in the landscaping requirements of this

section.

Only trees from the list provided in this section will be considered to meet the requirement of this article. Tree caliper shall be measured one-foot from the base of the tree. Multi-trunk trees shall count as one tree. Multi-trunk measurements shall be considered as an aggregate total of each trunk's individual diameter.

#### Protected Tree List

Only trees from the list provided in this section will be considered to meet the requirement of a protected tree for this article.

Scientific Name	Common Name	Minimum Caliper
Fraxenis Texensis	Texas Ash	5"
Quercus Macrocarpa	Bur Oak	5"
Quercus Virginiana	Live Oak	5"
Quercus Shumardii	Shumard Red Oak (aka Texana) (aka Texas Red Oak)	5"
Quercus Muhlenbergii	Chinquapin Oak	5"
Carya Illinoensis	Pecan	5"
Quercus Accutissima	Sawtooth Oak	5"
Quercus Stellata	Post Oak	5"
Quercus Marilandica	Black Jack Oak	5"
Ulmus Crassifolia	Cedar Elm	5"

*Removal of protected trees.* If protected trees are removed from the pad site, fees for removal shall be paid according to the tree removal provisions of the city general development ordinance. Payment for tree removal shall be due prior to issuance of a drilling permit. Funds received for tree removal shall be designated to a general beautification fund as determined by the city.

(g) *Vehicle routes for oil or 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 this 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.

A signed road usage and damage remediation agreement will be required for any gas or oil well drilling operation that uses city maintained streets for access to their well site, whether the wells are within the city limits or outside the city limits.

(h) *Work hours for oil or gas well permit.* Site development, other than drilling, shall be conducted only between 7:00 a.m. to 7:00 p.m. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to between the hours of 7:00 a.m. to 7:00 p.m. except in cases of fires, blowouts, explosions and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. All formation fracture stimulation operations shall be conducted during daylight hours as defined by this article. "Flowback" operations to recover fluids used during fracture stimulation shall be exempt from work hour restrictions, but are subject to compliance with noise restrictions contained in

this article. All workover operations shall be restricted to daytime hours.

(i) *Noise restrictions for oil or gas well permit.*

- (1) In no case shall any drilling, producing or other operations produce a sound level greater than 78 dB(a) when measured at a distance of 300 feet from the production equipment in question. If the ambient noise level exceeds 78 dB(a), that ambient level will be the maximum allowable noise level under all circumstances. Prior to the issuance of an oil or gas well permit and the commencement of operations, the operator shall submit a noise management plan, approved by the city, detailing how the equipment used in the drilling, completion, transportation, or production of a well complies with the maximum permissible noise levels of this section. The noise management plan must:
- a. Identify operation noise impacts;
  - b. Provide documentation establishing the ambient noise level prior to construction of any wellhead, compressor or compression facility; and
  - c. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
    1. Nature and proximity of adjacent development, location, and type;
    2. Seasonal and prevailing weather patterns, including wind directions;
    3. Vegetative cover on or adjacent to the site; and
    4. Topography.

The operator shall be responsible for verifying compliance with this section and the noise management plan after the installation of the noise generation equipment.

- (2) No well shall be drilled, redrilled or any equipment operated at any location within the city in such a manner so as to create any noise which causes the exterior noise level when measured at the protected use receiver's/receptor's property line or from the closest exterior point of the protected use structure or inside the protected use structure if access to the property is granted by the receiver/receptor, that:
- a. Exceeds the ambient noise level by more than five decibels during daytime hours and more than three decibels during nighttime hours;
  - b. Exceeds the ambient noise level by more than ten decibels over the daytime average ambient noise level during fracturing operations during daytime hours. No fracturing shall be allowed during nighttime hours except for flowback operations related to fracturing as provided in c. below;
  - c. Exceeds the ambient noise level by more than three decibels during flowback operations during nighttime hours;
  - d. Creates pure tones where one-third octave band sound-pressure level in the band with the tone exceeds the arithmetic average of the sound-pressure levels of two contiguous one-third octave bands by five dB for center frequencies of 500 Hertz and above, and by eight dB for center frequencies between 160 and 400 Hertz, and by 15 dB for center frequencies less than or equal to 125 Hertz; or
  - e. Creates low-frequency outdoor noise levels that exceed the following dB levels:
    - 16 Hz octave band: 65 dB
    - 32 Hz octave band: 65 dB
    - 64 Hz octave band: 65 dB
- (3) The operator shall be responsible for establishing and reporting to the city a continuous 72-hour predrilling ambient noise level prior to the issuance of an oil or gas well permit. The 72-hour time span shall include at least one 24-hour reading during either a Saturday or Sunday. The operator shall use the prior established ambient noise level



for the installation of any new noise generation equipment unless the operator can demonstrate that the increase in the ambient noise level is not associated with drilling and production activities located either on or offsite.

- (4) Adjustments to the noise standards as set forth above in subsection (i)(1) a., b. and c. of this section may be permitted intermittently in accordance with the following:

Permitted Increase (dBA)	Duration of Increase (minutes)*
10	.....5
15	.....1
20	.....less than 1
*Cumulative minutes during any one hour	

- (5) All workover operations shall be restricted to daytime hours.
- (6) The exterior noise level generated by the drilling, redrilling or other operations of all gas wells located within 800 feet of a protected use shall be continuously monitored, to ensure compliance. The cost of such monitoring shall be borne by the operator. If a complaint is received by either the operator or the city from a protected use, the operator shall, within 24-hours of notice of the complaint, continuously monitor for a 72-hour period the exterior noise level generated by the drilling, redrilling or other operations to ensure compliance. At the request of the gas inspector, the operator shall monitor the exterior noise level at the source of the complaint.
- (7) Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the gas inspector may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and be subject to approval by the city.
- (8) The sound level meter used in conducting noise evaluations shall meet the American National Standard Institute's standard for sound meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.
- (9) A citation may be immediately issued for failure to comply with the provisions of this section. However, if the operator is in compliance with the approved noise management plan, and a violation still occurs, the operator will be given 24 hours from notice of noncompliance to correct the violation from an identified source before a citation is issued. Additional extensions of the 24-hour period may be granted in the event that the source of the violation cannot be identified after reasonable diligence by the operator.
- (j) *Tank specifications for an oil or 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 city. The top of the tanks shall be no higher than eight feet above the terrain surrounding the tanks. All tanks shall be set back pursuant to the standards of the commission and the International Fire Code, but in all cases, shall be at least 25 feet from any public right-of-way or property line.
- (k) All other provisions outlined in this article shall be required.

(Ord. No. 3673-05-2009, § 1, 5-4-09; Ord. No. 3809-10-2010, §§ 2—4, 10-4-10; Ord. No. 3849-04-2011, §§ 1—3, 4-4-11)

**Sec. 7-608. - Issuance of oil or gas well permits.**

- (a) It is the responsibility of the oil and gas inspector to review and approve or disapprove based

on the criteria established by this article all applications for oil or gas well drilling permits for wells located more than 800 feet from a protected use for which a building permit has been issued on the date the application for a permit is filed with the oil and gas inspector. The issuance of an oil or gas well permit for wells located 800 feet or less from such a protected use is subject to approval by the city council. The oil and gas inspector, within 30 days of the receipt of a complete application, or after the approval by the city council and remittance of all fees, insurance and security per the requirements of this article for an oil or gas well permit, shall issue an oil or gas well permit for the drilling of the well or the installation of the facilities applied for.

- (b) The provisions of this article shall apply to any dwellings or buildings for which an application for a building permit has been submitted on the date the application for an oil or gas well permit is filed with the oil and gas inspector.
- (c) If the oil and gas inspector denies an oil or gas well permit application, he shall notify the operator in writing of such denial stating the reasons for the denial. Within 30 days of the date of the written decision of the oil and gas inspector to deny the oil or gas well permit, the operator may:
  - (1) Cure those conditions that caused the denial and resubmit the application to the oil and gas inspector for approval and issuance of the oil or gas well permit; or
  - (2) File an appeal to the city council under the provisions outlined in this article.

*(Ord. No. 3673-05-2009, § 1, 5-4-09)*

### **Sec. 7-609. - Amended oil or gas well permits.**

- (a) An operator may submit an application to the oil and gas inspector to amend an existing oil or gas well permit to commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) the existing oil or gas well permit, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing oil or gas well permit, or to otherwise amend the existing oil or gas well permit.
- (b) Applications for amended oil or gas well permits shall be in writing, shall be signed by the operator, and shall include the following:
  - (1) The application fee as set forth herein;
  - (2) A description of the proposed amendments;
  - (3) Any changes to the information submitted with the application for the existing oil or gas well permit (if such information has not previously been provided to the city);
  - (4) Such additional information as is reasonably required by the oil and gas inspector to demonstrate compliance with the applicable oil or gas well permit; and
  - (5) Such additional information as is reasonably required by the oil and gas inspector to prevent imminent destruction of property or injury to persons.
- (c) All applications for amended oil or gas well permits shall be filed with the oil and gas inspector for review. Incomplete applications may be returned to the applicant, in which case the city shall provide a written explanation of the deficiencies; however, the city 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 generally consistent with the activities covered by the existing oil or gas well permit, and if the proposed activities are in conformance with the applicable oil or gas well permit, then the oil and gas inspector shall approve the amendment within ten days after the application is filed.
- (e) If the activities proposed by the amendment are materially different from the activities covered by the existing oil or gas well permit, the operator shall submit a new application. The process

will then proceed through the same review and hearing requirements outlined above for a new well.

- (f) The failure of the oil and gas inspector to review and issue an amended oil or gas well permit within the time limits specified above shall not cause the application for the amended oil or gas well permit to be deemed approved.
- (g) The decision of the oil and gas inspector to deny an amendment to an oil or gas well permit shall be provided to the operator in writing within ten days after the decision, including an explanation of the basis for the decision. The operator may:
  - (1) Cure those conditions that caused the denial and resubmit the application to the oil and gas inspector for approval and issuance of the oil or gas well permit; or
  - (2) File an appeal to the city council under the provisions outlined in this article.

*(Ord. No. 3673-05-2009, § 1, 5-4-09)*

### **Sec. 7-610. - Suspension or revocation of oil or gas well permit; effect.**

- (a) If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of an oil or gas well permit (including any requirement incorporated by reference as part of the oil or gas well permit), the oil and gas 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 ten 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 article.
- (b) If, the operator fails to correct the noncompliance within ten days from the date of the notice, the oil and gas inspector may suspend or revoke the oil or gas well permit pursuant to the provisions of this article.
- (c) No person shall carry on any operations performed under the terms of the oil or gas well permit issued under this article during any period of any oil or gas well permit suspension or revocation or pending a review of the decision or order of the city in suspending or revoking the oil or 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 oil or gas well permit was ordered for the safety of persons or as required by the commission.
- (d) If the operator does not cure the noncompliance within the time specified in this article, the oil and gas inspector, upon written notice to the operator, may notify the commission and request that the commission take any appropriate action.
- (e) Operator may, within 30 days of the date of the decision of the oil and gas inspector in writing to suspend or revoke an oil or gas well permit, file an appeal to the city council under the provisions outlined in this article pursuant to this article.
- (f) If an application for an oil or gas well permit is denied by the oil and gas inspector, nothing herein contained shall prevent a new permit application from being submitted to the oil and gas inspector for the same well.

*(Ord. No. 3673-05-2009, § 1, 5-4-09)*

### **Sec. 7-611. - Periodic reports.**

- (a) The operator shall notify the oil and gas 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 [be] a resident of Texas that can be served in person or by registered or certified mail); and
  - (3) The operator's emergency action response plan (including "drive-to-maps" from public rights-of-way to each drill site).
- (b) The operator shall notify the oil and gas 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 31 after each well is completed, and continuing on each December 31 thereafter until the operator notifies the oil and gas inspector that the well has been abandoned and the site restored, the operator shall submit a written report to the oil and inspector identifying any changes to the information that was included in the application for the applicable oil or gas well permit that have not been previously reported to the city.

(Ord. No. 3673-05-2009, § 1, 5-4-09)

## **Sec. 7-612. - Bond, letters of credit, indemnity, insurance.**

- (a) *General requirements.* The operator shall be required to:
  - (1) Comply with the terms and conditions of this article and the oil or 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 an oil or 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 oil or gas well permit.
  - (5) Promptly restore to its former condition any public property damaged by the oil or gas operation.
- (b) *Bond.*
  - (1) Prior to the issuance of an oil or gas well permit the operator shall provide the oil and inspector with a security instrument in the form of a bond as follows:
    - a. *Bond.* A bond shall be executed by a reliable bonding or insurance institution authorized to do business in Texas, acceptable to the city. The bond shall become effective on or before the date the oil or gas well permit is issued and

shall remain in force and effect for at least a period of six months after the expiration of the oil or gas well permit term or until the well is plugged and abandoned and the site is restored, whichever occurs first. The operator shall be listed as principal and the instrument shall run to the city, as obligee, and shall be conditioned that the operator will comply with the terms and regulations of this article and the city. The original bond shall be submitted to the oil and gas inspector.

- b. The principal amount of any security instrument shall be \$50,000.00 for any single well. If, after completion of a well, the applicant/operator, who initially posted a \$50,000.00 bond, has complied with all of the provisions of this article and whose well in the producing stage and all drilling operations have ceased, may submit a request to the oil and [gas] inspector to reduce the existing bond to \$10,000.00 for the remainder of the time the well produces without reworking. During reworking operations, the amount of the bond or letter of credit shall be maintained at \$50,000.00.

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

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

If at any time after no less than a 15-day written notice to the operator and a public hearing, the city council shall deem any operator's bond or letter of credit to be insufficient, it may require the operator to increase the amount of the bond or letter of credit up to a maximum of \$250,000.00 per well.

- c. Whenever the oil and gas inspector finds that a default has occurred in the performance of any requirement or condition imposed by this article, a written notice shall be given to the operator. Such notice shall specify the work to be done and the period of time deemed by the oil and gas inspector to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall provide the estimated cost and, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the city 125 percent of the estimated cost of doing the work. In no event, however, shall the cure period be less than 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 article. The maximum cure period shall not exceed 45 days. The city shall be authorized to draw against any 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 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 article.

- d. 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, or the issuer of the security instrument refuses to honor any draft by the city against the 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.
  - e. When the well or wells covered by said bond have been properly abandoned in conformity with all regulations of this article, and in conformity with all regulations of the commission and notice to that effect has been received by the city, or upon receipt of a satisfactory substitute, the bond issued in compliance with these regulations shall be terminated and cancelled.
- (c) *Insurance.* In addition to the bond required pursuant to this article, 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 oil or gas well permit shall be suspended on such date of cancellation and the operator's right to operate under such oil or 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 Lewisville 151 West Church Street, Lewisville, Texas 75057, evidencing all the required coverages, including endorsements, prior to the issuance of an oil or gas well permit.
  - f. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the city.
  - g. Any failure on part of the city to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
  - h. Each policy shall be endorsed to provide the city a minimum 30-day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten days notice shall be acceptable in the event of non-payment of premium.
  - i. During the term of the oil or gas well permit, the operator shall report, in a timely manner, to the oil and gas 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 \$1,000,000.00 per occurrence for bodily injury and property damage.
- (3) *Excess or umbrella liability.*
- \$5,000,000.00 excess, if the operator has a stand-alone environmental pollution liability (EPL) policy.
  - \$10,000,000.00 excess, if the operator does not have a stand-alone EPL policy.
- Coverage must include an endorsement for sudden or accidental pollution. 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 oil or 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 \$1,000,000.00 per loss, with an annual aggregate of at least \$10,000,000.00.
  - b. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.
  - 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, redrilling 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.
- \$5,000,000.00 per occurrence/no aggregate, if available, otherwise an aggregate of \$10,000,000.00.
  - \$500,000.00 sub-limit endorsement may be added for damage to property for which the operator has care, custody and control.
- (6) *Workers compensation and employers liability insurance.*
- a. Workers compensation benefits shall be Texas statutory limits.
  - b. Employers liability shall be a minimum of \$500,000.00 per accident.
  - c. Such coverage shall include a waiver of subrogation in favor of the city and provide coverage in accordance with applicable state and federal laws.
- (7) *Automobile liability insurance.*
- a. Combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
  - b. Coverage must include all owned, hired and not-owned automobiles.
- (8) *Certificates of insurance.*

- a. The company must be admitted or approved to do business in the State of Texas, unless the coverage is written by a surplus lines insurer.
- b. The insurance 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 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 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 oil or gas well permit issued by the oil and gas 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 Lewisville, 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 an oil or gas well permit. The Operator shall fully defend, protect, indemnify, and hold harmless the City of Lewisville, 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 Lewisville, 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 an oil or gas well permit. The Operator agrees to indemnify and hold harmless the City of Lewisville, 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 Lewisville occurring on the drill site or operation site in the course and scope of inspecting and permitting the Oil or Gas wells INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF LEWISVILLE OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE OIL OR 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 LEWISVILLE, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF LEWISVILLE, 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 article may be served in person or by registered or certified mail. Every operator shall within ten days notify the oil and gas 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 \$25,000,000.00, 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 and insurance requirements set forth in this article, provided that such acceptance and indemnity agreement shall be in a form acceptable to, and approved by, the city attorney. The oil and gas inspector may request an annual review of the operator's most recent audited financial statements to assure compliance with this section.

(Ord. No. 3673-05-2009, § 1, 5-4-09)

### **Sec. 7-613. - Technical regulations.**

- (a) *Onsite 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 three feet below the surface unless the surface owner submits a written agreement otherwise. Three 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 oil or gas operations as required by and in conformance with the requirements of the 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 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 oil or gas operation or the contents of any container used in connection with any oil or gas operation in, into, or upon any public right-of-way, alleys, streets, lots, storm drain, pit, ditch or sewer, sanitary drain or any body of water or water course that may ultimately enter into waters of the city, state or United States.
  - (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. The material flushed shall

be secured and contained without release into the environment.

- (6) *Dust, vibration, odors, debris on roadways.* 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 oil, 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. No operation at a pad site shall cause mud, dirt, debris, etc. to be deposited onto public roadways.
- (7) *Electric lines.* All operations on the site shall be powered by underground electric lines when sufficient power is available within 800 feet of the pad site. When electric utility lines are located within 800 feet of the pad site and are determined to be sufficient for operations, the operator may use fuel powered generators only as a backup in the event of a power failure. When such electric utility lines are not located within 800 feet of the pad site the operator may use fuel powered generators.
- (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 except for thermal electric generators. 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 oil, gas or other hydrocarbons production activities, operator shall submit to the oil and gas inspector an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of oil or gas wells. Said plan shall use existing guidelines established by the 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 a light tan color and be 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 oil or gas well, the center of which, at the surface of the ground, is located within 300 feet of any existing fresh water well, except for fresh water wells used solely for operation of the oil or gas well operation. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.  
  
The operator of an oil or gas well shall provide the oil and gas inspector with a "pre-drilling" and "post-drilling" water analysis from any fresh water well within 800 feet of the oil or gas well.

Within 180 days of its completion date, each oil or gas well shall be equipped with a cathodic protection system to protect the production casing from external corrosion. The oil and gas inspector may approve an alternative method of protecting the production casing from external corrosion.

- (13) *Grass, weeds, trash.* All drill and operation sites shall be kept clear of high grass, weeds, and trash. All landscaping shall be continuously maintained in an acceptable manner.
- (14) *Hazardous plan.* A hazardous materials management plan shall be on file with the fire marshal and the oil and gas 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 500 feet. Except as may otherwise be required by the state railroad commission, all lighting shall comply with city codes regulating lighting.
- (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 oil and gas inspector that fracing will occur before or after daylight hours to meet safety requirements.

- (17) *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.
- (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 comply with fire access lane requirements contained in the Fire Code except that the minimum unobstructed width shall be at least 12 feet wide, have an overhead clearance of 14 feet and shall be paved with asphalt or concrete capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds. Said roadway shall be maintained by the operator in proper repair for the life of the well. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the oil and gas 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.
- (19) *Salt water wells.* No salt water wells, injection wells or disposal wells shall be located within the city.
- (20) *Signs.*
  - a. A sign shall be immediately and prominently displayed adjacent to the public right-of-way at the gate on the temporary and permanent site fencing erected pursuant to this article. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the commission, shall have a surface area of not less than two square feet nor more than four 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 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 marshal of the city. Sign lettering shall be four 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 commission.

- (21) *Storage of equipment.* Onsite 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.

- (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 city. 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 in height and one and one-half times the contents of the largest tank in accordance with the fire code, and buried at least one foot below the surface. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tank. All tanks permanently stored on site shall be painted the same light tan color as other permanent equipment unless an alternative color is deemed acceptable by the oil and gas inspector.

All tanks shall be set back pursuant to the standards of the commission and the International Fire Code, but in all cases, shall be at least 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.

- (23) *Tank battery facilities.* Tank battery facilities shall be equipped with a remote foam line and a lightning arrestor system.
- (24) *Surface casing.* Surface casing shall be run and set in full compliance with the applicable rules and regulations of the commission.

- (25) *Valves.* All gas well sites shall be equipped with a manual shut off valve or device in order for the city to terminate the well's production in the event of an emergency. The location of the valve shall be determined by the oil and gas inspector.
- (26) *Bradenhead gauge.* Operators shall be required to install a bradenhead gauge on all gas wells. The bradenhead gauge shall be subject to inspection by the city at all times. Pressure readings shall be provided to the gas well inspector upon request.
- (27) *Waste disposal.* Unless otherwise directed by the 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 100 feet of any dwelling or other combustible structure.
- Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, reworking or deepening of any well shall be processed through a closed loop mud system. All disposals must be in accordance with the rules of the commission and any other appropriate local, state or federal agency.
- Unless otherwise directed by the commission, waste materials shall be removed from the site and transported to an offsite disposal facility not less often than every 30 days. Water stored in onsite 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 article and any other applicable ordinance of the city.
- (28) *Watchman.* The operator must keep a watchman or security personnel on site during the drilling or reworking of a well when other workmen are not on the premises.
- (29) *Painting.* All production equipment shall be painted light tan in color and be maintained at all times, including wellheads, pumping units, tanks and secondary containment. When requiring painting of such facilities, the gas 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. The color of all tanks, fixed equipment and painted surfaces shall be the same throughout the pad site.
- (30) *Driveway.* A driveway shall be constructed, conforming to the detail titled Commercial and Industrial Driveway Layout—Truck Entrances as contained in the city's general development ordinance, at the entrance to a gas well or related site to a public road, and extending from the right-of-way to the pad site conforming to all applicable city ordinances.
- (b) *Installation of pipelines on, under or across public property.* The operator shall apply to the city for a franchise agreement on, over, under, along or across the city streets, sidewalks, alleys 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 oil or gas well permit issued pursuant to this article. 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 oil and gas inspector 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. No oil or 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 thoroughfare 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 oil and gas inspector. Any consent from the oil and gas 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.

(Ord. No. 3673-05-2009, § 1, 5-4-09; Ord. No. 3809-10-2010, §§ 5—10, 10-4-10; Ord. No. 3849-04-2011, §§ 4—7, 4-4-11)

### **Sec. 7-614. - Fences, walls, screening.**

- (a) *Fences/walls.* Fences shall not be required on drill sites during initial drilling, completion or reworking operations as long as 24-hour onsite 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.
- (1) 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 be of a design compatible with the facilities, buildings and structures on and adjacent to the site; and shall be at least eight feet in height.
- (b) *Gate specifications.* The gate shall meet the following specifications:
- (1) Each gate shall be not less than 12 feet wide and be composed of two gates, each of which is not less than six feet wide, or one sliding gate not less than 12 feet wide. If two gates are used, gates shall latch and lock in the center of the span;
- (2) The gates shall be of metal frame and wooden veneer construction that meets the applicable specifications, or of other approved material;
- (3) The gates shall be provided with a combination catch and locking attachment device for a combination padlock, and shall be kept locked except when being used for access to the site; and
- (4) Operator must provide the oil and gas inspector with the padlock combination.
- (5) Operator must provide the city with a "Knox Padlock" or "Knox Box with a key" to access the well site to be used only in case of an emergency.

(Ord. No. 3673-05-2009, § 1, 5-4-09)

### **Sec. 7-615. - 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 60 days.
- (b) *Cleanup after spills, leaks and malfunctions.* After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the oil and gas inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Cleanup operations must begin immediately. If the owner fails to begin site clean-up within 24 hours, the city shall have the right to contact the 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.

- (d) *Painting.* All production equipment shall be painted light tan in color and be maintained at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the oil and gas 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. The color of all tanks, fixed equipment and painted surfaces shall be the same throughout the pad site.
- (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 article and shall notify the oil and gas inspector as soon as practicable. The oil and gas inspector shall certify in writing, briefly describing the same, to the city manager. If the oil and gas 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 oil and gas 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 oil and gas 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 oil and gas inspector in gaining control of said well.

(Ord. No. 3673-05-2009, § 1, 5-4-09; Ord. No. 3809-10-2010, § 11, 10-4-10)

### **Sec. 7-616. - Plugged and abandoned wells.**

- (a) *Surface requirements for plugged and abandoned well.* Whenever abandonment occurs pursuant to the requirements of the 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 article.
- (b) Abandonment shall be approved by the oil and gas inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the oil and gas 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 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 article.
- (c) *Abandoned well requirement.* The operator shall furnish the following at the discretion of the oil and gas inspector:
- (1) A copy of the approval of the 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 commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

(Ord. No. 3673-05-2009, § 1, 5-4-09)



## Sec. 7-617. - Technical advisor.

The city shall employ a technical advisor or advisors who are experienced and educated in the oil or gas industry or the law as it pertains to oil or gas matters. Such technical advisor shall possess at a minimum, a degree in petroleum engineering with a background in drilling and production or demonstrate a proven background in the drilling, production, and operation of oil and gas wells. The function of such advisor(s) shall be to advise, counsel or represent the city on such matters relating to oil or 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 article, 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 article, including an annual inspection of all wells. 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.

(Ord. No. 3673-05-2009, § 1, 5-4-09; Ord. No. 3745-02-2010, § 1, 2-15-10)

## Sec. 7-618. - Emissions control/reduction.

- (a) *Emissions control/reduction plan.* An emission control/reduction plan shall be submitted to the city as part of the application package. The plan shall outline policies, practices, procedures, and equipment in sufficient detail to illustrate compliance with any federal, state, or local law or ordinance, and industry best management practices regarding air quality. At a minimum, the plan shall include the following:
  - (1) Name, location, and operator of well.
  - (2) A detailed description of the operational steps used to ensure compliance with best management practices.
  - (3) A detailed description of the maintenance program of equipment utilized at the well site.
  - (4) Description of the emission monitoring program or voluntary leak detection program.
- (b) *Gas stream analysis report.* Submit to the city a quarterly gas stream analysis report for review. Should levels of volatile compounds found in the report pose a significant health risk in the event of an emission leak, the city can require additional air quality monitoring at the operator's expense.
- (c) *Release reporting.* If the city responds to a reported emission leak and verifies a leak has or is occurring, the operator shall submit to the city an after-action report outlining, at a minimum, the following:
  - (1) Location and date of the incident.
  - (2) Cause of the incident and equipment involved.
  - (3) Analysis of the quantity of emissions released by compound.
  - (4) Repair/remediation efforts taken to minimize the potential of similar incidents.
- (d) *Air sampling inspections.* The city may retain an independent air quality monitoring company to provide semi-annual inspections of all gas related sites to develop air sampling reports. These reports shall be reviewed by the city and/or a technical expert to determine whether the levels of compounds found in the report pose a health risk. If so, the city can impose measures upon the facility to rectify the situation.
- (e) *Shut-off valve.* All gas well sites shall be equipped with a manual shut-off valve or device in order for the city to terminate the well's production in the event of an emergency. The location of the valve shall be determined by the oil and gas inspector.



(Ord. No. 3849-04-2011, § 8, 4-4-11)

*Editor's note—*

Ord. No. 3849-04-2011, § 8, adopted Apr. 4, 2011, deleted the former § 7-618 and enacted a new § 7-618 as set out herein. The former § 7-618 pertained to appeals and derived from Ord. No. 3673-05-2009, § 1, 5-4-09.

### **Sec. 7-619. - Permit to operate a gas production facility required.**

- (a) An annual permit shall be required to operate a gas production facility.
- (b) The permit fee shall be in accordance with the currently adopted fee ordinance.
- (c) The permit fee shall be due on January 1 of each year. The permit holder shall, within 45 days after fee invoice, deliver to the city the permit fee. Failure by permit holder to pay the annual permit fee within the prescribed time, shall, upon conviction in a court of competent jurisdiction, be guilty of a misdemeanor and each day that such permit holder fails to deliver payment shall constitute a separate offense.
- (d) No gas production facility may continue to operate without a valid permit. No permit shall be valid until the permit fee has been paid.
- (e) A permit to operate a gas production facility may be suspended or revoked when it is determined, after a hearing by the director of community development, that:
  - (1) It is used by a person other than the person to whom the permit was issued;
  - (2) It is used for a gas production facility other than that for which it was issued;
  - (3) Any of the conditions or limitations set forth in the permit have been violated;
  - (4) The permit holder fails, refuses, or neglects to comply with any order or notice served upon him within the time period provided therein;
  - (5) There has been any false statement or misrepresentations as to a material fact in the plans, specifications, or documentation upon which the permit was based;
  - (6) Whenever a change in ownership or operator occurs, the existing permit shall be automatically revoked and a new permit shall be required;
  - (7) The permit holder is in violation of any provision of this article, including, but not limited to, failure to pay the permit or re-inspection fee; or
  - (8) When, in the opinion of the director of community development, a gas production facility operates the facility in such a manner as to cause repetitive violations or create undue risk to the health, safety or welfare of the city.
- (f) The permit holder shall, as a condition of issuance of the permit to operate a gas production facility, allow the city's oil and gas inspector to make inspections of the gas production facility when needed, but no less frequently than quarterly, to ensure compliance with this article. All federal, state, and city laws, codes and ordinances shall be complied with at all times.
- (g) A re-inspection fee for each re-inspection of a noted violation shall be assessed for inspections that are required to verify that a violation has been repaired or corrected. The re-inspection fee shall be in accordance with the currently adopted fee ordinance.
- (h) The permit holder shall consent to semi-annual air sampling tests at their sites. Costs of this testing shall be billed to and directly paid by the permit holder to the city-specified testing company. Reports generated from these inspections shall be reviewed by the city and/or its technical advisor. Should, in the city's opinion, levels of compounds detected pose a health risk, the city may impose additional measures upon the facility to rectify the situation.
- (i) The permit holder shall submit to the city a quarterly gas stream analysis report for review. Costs of such report and the city's review shall be borne by the permit holder. Should, in the city's opinion, levels of volatile compounds found in the report pose a health risk in the event of

an emission leak, the city may require additional air quality monitoring at the permit holder's expense.

(Ord. No. 3869-06-2011, § 2, 6-6-11)

*Editor's note—*

Ord. No. 3869-06-2011, § 2, adopted June 6, 2011, deleted the former § 7-619 and enacted a new § 7-619 as set out herein. The former § 7-619 pertained to permit required and derived from Ord. No. 3849-04-2011, § 9, 4-4-11.

### **Sec. 7-620. - 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 an oil or gas well permit or the revocation or suspension of any oil or gas well permit issued hereunder as provided by this article. Any person or entity whose application is denied by the oil and gas inspector or whose oil or gas well permit is suspended or revoked or whose well or equipment is deemed by the oil and gas inspector to be abandoned may, within 30 days of the date of the written decision of the oil and gas 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 city secretary. The grounds for appeal must be set forth specifically, and the error described, by the appellant.
  - (2) Within 30 days of receipt of the records, the city secretary 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 of \$350.00.

(Ord. No. 3849-04-2011, § 10, 4-4-11)

### **Sec. 7-621. - 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 an oil or gas well permit issued under this article;
  - (2) Fail to comply with any condition set forth in an oil or gas well permit issued under this article; or
  - (3) Violate any provision or requirement set forth under this article.
- (b) Any violation of this article shall be punished by a fine of not more than \$2,000.00 per day, subject to applicable state law. Each day that a violation exists shall constitute a separate offense.

(Ord. No. 3849-04-2011, § 11, 4-4-11)

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#### FOOTNOTE(S):

<sup>(56)</sup> *Editor's note—* Ord. No. 3673-05-2009, § 1, adopted May 4, 2009, repealed the former Art. XVIII, §§ 7-601—7-619, and enacted a new Art. XVIII as set out herein. The former Art. XVIII pertained to oil and gas drilling and production and derived from Ord. No. 3601-09-2008, § 1, 9-8-08. ([Back](#))