

## Chapter 8.36 OIL AND GAS WELLS\*

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\* Prior ordinance history: Ords. 652 and 1032.

### 8.36.010 Purpose.

The exploration, development, and production of gas in the city necessitate 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 declared to be the purpose of this chapter 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 gas and other substances produced in association with gas within the city to protect the health, safety and general welfare of the public, minimize the potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources.

(Ord. 1210 § 1 (part), 2006)

### 8.36.020 Definitions.

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

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

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

"Building" means any structure 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 anode materials or by an impressed current system.

"City" means the city of Benbrook.

"City attorney" means the city attorney of the city of Benbrook.

"City code" means the Municipal Code of the city of Benbrook.

"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 and all state rules.

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

"Daytime" means the period from six a.m. to seven p.m.

"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 twenty micropascals.

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

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

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

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

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

"FEMA" means Federal Emergency Management Agency.

"Fire department" means the fire department of the city of Benbrook.

"FIRM" means flood insurance rate map.

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

"High impact permit" means a permit required if the proposed well is to be located within six hundred feet of a residence, religious institution, public building, hospital building, school or public park.

"Inspector" means the city manager or designee designated by the city manager of Benbrook.

"Nighttime" means the period between seven p.m. and six a.m.

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

"Operator" means, for each well, the person listed on the railroad commission form W-1 or form P-4 for a gas well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the operator, as defined in this chapter, is not the lessee under a gas lease of any premises affected by the provisions of this chapter, then such lessee shall also be deemed to be an operator. In the event that there is no gas lease relating to any premises affected by this chapter, the owner of the fee mineral estate in the premises shall be deemed an operator.

"Person" means 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.

"Property owner" means the owner of the surface property.

"Protected use" means a residence, religious institution, public building, hospital building, school or public park.

"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, shopping malls, stores and hospitals.

"Public park" means any land area dedicated to and/or maintained by the city for traditional park-like recreational purposes, but shall not include privately owned amusement parks or privately owned or privately managed golf courses.

"Re-drill" means recompletion of an existing well by deepening or sidetrack operations extending more than one hundred fifty 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, mobilehome or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a gas well permit is filed with the city manager or designee.

"Re-working" means recompletion or re-entry of existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than one hundred fifty 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.

"Rural gas permit" means that permit required if the proposed well is located on an open space of not less than twenty-five acres with no operations to be conducted within one thousand feet of a residence, religious institution, public building, hospital building, school or public park.

"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 Benbrook that provides care, training, education, custody, treatment or supervision for more than six children under fourteen years of age, and for less than twenty-four 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 gas or other hydrocarbons for holding or storing fluids.

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

"Urban gas well permit" means a gas well permit other than a high impact gas well permit or rural gas well permit.

"Well" means a hole or holes, bore or bores, to any horizon, formation, or strata for the purpose of producing gas, liquid hydrocarbon, brine water or sulphur water, or for use as an injection well for secondary recovery, disposal or production of gas, or other hydrocarbons from the earth. (Ord. 1210 § 1 (part), 2006)

#### 8.36.030 City manager or designee.

A. The city manager or designee shall enforce the provisions of this chapter. The city manager or designee shall have the authority to issue any orders or directives required to carry out the intent and purpose of this chapter and its particular provisions. Failure of any person to comply with any such order or directive shall constitute a violation of this chapter.

B. City manager or designee shall have the authority to enter and inspect any premises covered by the provisions of this chapter to determine compliance with the provisions of this chapter and all applicable laws, rules, regulations, standards or directives of the state and to issue citations for violations of this chapter. Failure of any person to permit access to the city manager or designee shall constitute a violation of this chapter. The city manager or designee 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 chapter and all regulations of the commission.

C. The city manager or designee 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 gas well permit. Failure of any person to provide any such requested material shall be deemed a violation of this chapter.

D. The city manager or designee, upon written recommendation by the technical advisor, shall have the authority to allow alternatives to the technical standards of this chapter related to public safety and welfare, such as new technology, if the operator has demonstrated to the city manager or designee's satisfaction that the alternatives provide equal or greater protection of the environment or public.

(Ord. 1210 § 1 (part), 2006)

#### 8.36.040 Operator's agent.

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

(Ord. 1210 § 1 (part), 2006)

#### 8.36.050 Gas well permits.

A. A person wanting to engage in and operate in gas production activities shall apply for and obtain a gas well permit under this chapter and shall indicate what type of gas well permit is requested. It is unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, re-working, fracturing or operation of any such well or to conduct any activity related to the production of gas without first obtaining a gas well permit issued by the city in accordance with this chapter. Such activities include, but are not limited to, re-working, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing. A permit shall not be required for seismic surveys.

B. Operator must apply for and obtain a gas well permit for the drilling, re-drilling, deepening, re-entering, activating or converting of each well.

C. Gas well permit shall not constitute authority for the re-entering and drilling of an abandoned well. An operator shall obtain a new gas well permit in accordance with the provisions of this chapter if the operator is re-entering and drilling an abandoned well.

D. When a gas well permit has been issued to the operator for the drilling, re-drilling, deepening, re-entering, activating or converting of a well, such gas well permit shall constitute sufficient authority for drilling, operation, production gathering or production, maintenance, repair, re-working, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well, provided, however, that a new or supplemental permit shall be obtained before such well may be reworked for purposes of re-drilling, deepening or converting such well to a depth or use other than that set forth in the then current permit for such well.

E. Any person who intends to re-work a permitted well using a drilling rig, to fracture stimulate a permitted well after initial completion or to conduct seismic surveys or other exploration activities shall give written notice to the city manager or designee no less than ten 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 twenty-four hour phone number of the person conducting the activities. If requested by the city manager or designee, the person conducting the activities will post a sign on the property giving the public notice of the activities, including the name, address and twenty-four hour phone number of the person conducting the activities. If the city manager or designee determines that an inspection by the city manager or designee is necessary, the operator will pay the city for the inspection.

F. Gas well permit shall automatically terminate unless extended, if drilling of the well bore has not commenced within one hundred eighty days from the date of the issuance of the gas well

permit. A gas well permit may be extended by the city manager or designee for an additional one hundred eighty days upon request by the operator and proof that the classification of the requested gas well permit for such location has not changed.

G. The gas well permits required by this chapter are in addition to and 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 gas well permit shall be issued for any well to be drilled within any public park without the prior consent of the city council. The city council shall review the insurance and security requirements on an individual basis prior to issuing the permit.

I. No gas well permit shall be issued for any well to be drilled within any floodplain or floodway identified by FEMA on the most current FIRM:

1. Without obtaining a floodplain development permit from the community development department; and
2. Without obtaining approval to apply for a gas well permit in the floodway from the city council.

J. No gas well permit shall be issued for a high impact permit unless the pad site is graded in such a way as to comply with the following:

1. Any fill material shall not be higher than the highest elevation along the perimeter of the adjacent tracts, parcels or platted lots, however; fill material placed on pad sites shall not exceed three feet in height above the highest elevation along the perimeter of the adjacent tracts, parcels or platted lots;
2. The slope of the fill material is a maximum ratio of three feet horizontal to one foot vertical, unless a retaining wall system built in compliance with the city code and regulations is in place;
3. Fill material must be leveled and graded for positive drainage;
4. The placement of fill material may not cause the release of dust and/or odor; damage any public improvements or public infrastructure; be placed in a floodplain or floodway without a valid permit; or result in flooding or significant increase in runoff to adjacent properties in accordance with state law;
5. Erosion control measures must be implemented to prevent any off-site migration of silt and sediment.

K. No gas well permit shall be issued for any well to be drilled on city-owned property without the prior consent of the city council. The city council shall review the insurance and security requirements on an individual basis prior to issuing the permit.

(Ord. 1210 § 1 (part), 2006)

#### 8.36.060 Gas well permit application and filing fees.

A. Every application for a gas well permit issued pursuant to this chapter shall be in writing signed by the operator, or some person duly authorized to sign on his behalf, and filed with the city manager or designee.

B. Every application shall be accompanied by a permit fee of one thousand five hundred dollars.

C. The application shall include the following information:

1. The date of the application and type of gas well permit requested;
2. An accurate legal description of the lease property to be used for the gas operation, the parcel and the production unit and name of the geologic formation as used by the 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 gas operation;
4. Proposed well name;
5. Surface owner name(s) and address(es) of the pad site property;
6. 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;
7. Name and address of individual designated to receive notice;
8. Name of representative with supervisory authority over all gas operation site activities and a twenty-four hour phone number;
9. Location and description of all improvements and structures within six hundred feet of the well;
10. Owner and address of each parcel of property within six hundred feet of the proposed drill site;
11. 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, lights, storage sheds, fencing and any access roads. The site plan shall also indicate any floodway, floodplain or city recognized drainageways and the elevation and slope of the pad site which indicates compliance with the then current fill ordinance;
12. The name, address and twenty-four hour phone number of the person to be notified in case of an emergency;
13. The exact and correct acreage included in the gas well permit application;
14. Copies of all reports required by the commission as required by the city manager or designee;
15. An original executed citywide road maintenance agreement signed and approved by the city must be filed with the city secretary that provides that the operator shall repair, at his own expense, any damage to roads, streets, or highways caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, and operation of gas wells;
16. A description of public utilities required during drilling and operation;
17. A description of the water source to be used during drilling;
18. A copy of the approved commission permit to drill together with attachments and survey plats which are applicable to the drill and operation sites;
19. A copy of the stormwater pollution prevention plan as required by the environmental protection agency. A copy of the notice of intent shall be submitted to the city of Benbrook three days prior to the commencement of any on-site activity;
20. A copy of the determination by the Texas Commission On Environmental Quality (TCEQ) of the depth of useable quality groundwater;
21. Evidence of insurance and security requirements under this chapter;
22. 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;
23. All required application and gas well permit fees.  
(Ord. 1210 § 1 (part), 2006)

8.36.070 Gas well permit classifications--High impact well permit.

A. A high impact gas well permit shall be required if the proposed well is to be located six hundred feet from a residence, religious institution, public building, hospital building, school or public park. A high impact gas well permit shall not be issued for any well to be drilled within six hundred feet of a residence, religious institution, public building, hospital building, school or public park without:

1. A waiver granted by the city council after notice and public hearing as required by this section; or
2. The written consent from all the protected use property owners filed in the applicable county deed records as required by this section.

This provision applies to any existing residence, religious institution, public building, hospital building, school or public park or where a building permit has been issued for a protected use on the date the application for a permit is filed with the city manager or designee.

For the purpose of a high impact gas well permit the measurement of the six hundred-foot distance shall be made from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building or boundary line of a public park.

B. An application for a high impact gas well permit shall include the following information:

1. All the requirements of this chapter;
2. A detailed site plan that includes all the information required in Section 8.36.060 of this chapter, but also includes specific details to the projected location of the major components of the drilling site, impacted vegetation, creeks and other topographic features, compliance with the landscaping requirements of this chapter, adjacent building and other structures and the measured distance from the well site to these buildings and structures, temporary and permanent fencing and landscaping;
3. A detailed landscape site plan for review and approval including the location of the access road and lights and fencing on the site;
4. All drill sites must be identified on plat(s) filed with the applicable county deed records; and
5. A letter to the city manager requesting a public hearing to obtain a high impact gas well permit from city council or a copy of the written notarized waivers from the protected uses within six hundred feet of the proposed well and evidence of filing of each waiver in the applicable county deed records.

C. Permitting Procedure for Request of Waiver for High Impact Permit by the City Council.

1. Within forty-five days of receipt of a complete application, a site plan and a request for a waiver to drill a high impact gas well, the city manager or designee shall place the matter on the city council agenda for a public hearing and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has requested in writing to be so notified. The forty-five day period shall not begin until the applicant/operator has provided the city manager or designee with a complete application package.
2. At least twenty days, and no more than thirty days prior to the date of the public hearing before the city council for a waiver and the issuance of high impact gas well permit under this chapter, the city shall notify, at operator's expense, each surface owner of property within one thousand feet of the proposed well not owned by or under lease to the operator and the hearing date and time. The notice shall contain the information as outlined below and shall also include an Internet link for information on gas drilling, the number of wells requested by the applicant, that drilling may commence within one hundred eighty days for the issuance of the permit, and contact telephone numbers for city staff and the operator/applicant. Such notice shall be



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

3. At least fifteen days, and no more than twenty days prior to the date of the public hearing before city council for a high impact gas well permit under this chapter, the city shall publish a notice of public hearing in the official city newspaper.

4. At least twenty days prior to the date of the public hearing before city council for a high impact gas well permit under this chapter 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 a high impact 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. The city manager or designee may require additional signage if the premise fronts on more than one right-of-way, street, roadway or public thoroughfare.

a. The sign(s) shall substantially indicate that a high impact gas well permit to drill for gas has been requested and state the date, time and place of the public hearing, and shall further set forth that additional information can be acquired by telephoning the applicant/operator at the number indicated on the sign.

b. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this chapter.

c. The sign shall remain posted at the pad site for the duration of the high impact gas well permit.

5. All notice provisions contained in this chapter shall be deemed sufficient upon substantial compliance with this section.

6. After a high impact permit application and site plan is submitted, the city manager or designee shall evaluate the public impact of the proposed activity. The city manager or designee 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 city manager or designee deems appropriate. The recommendation shall be submitted to the city council for consideration prior to the public hearing along with evidence that timely actual notice of the hearing was given to all persons as required by this chapter.

7. At the public hearing and before the city council considers the merits of the application and the recommendations of the city manager or designee, the applicant/operator shall provide evidence that the applicant/operator has complied with or satisfied all other requirements of this chapter, including full and complete compliance with the insurance and security requirements.

8. The burden of proof on all matters, except notice, considered in the hearing shall be upon the applicant/operator.

9. The city council shall review the application and any other related information. The city council shall consider the following in deciding whether to grant a waiver and authorize the issuance of a high impact gas well permit:

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

- b. Whether the drilling of such wells would conflict with the orderly growth and development of the city;
- c. Whether there are other alternative well site locations that would allow reasonable access to explore, develop and produce the mineral estate without creating mineral waste;
- d. Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the high impact gas well permit conditions to be imposed;
- e. Whether there is access for the city fire personnel and firefighting equipment;
- f. Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the gas well permit conditions are reasonable and justified, balancing the following factors: 1) the right of the owner(s) of the mineral estate to explore, develop, and produce the minerals; and 2) the availability of alternative drill sites, both presently and at other times during the lease term; and
- g. The recommendations of the city manager or designee.

10. The city council may require an increase in the operator/applicant's proposed distance that the well is to be setback from any residence, religious institution, public building, hospital building, school or public park or require any change in operation, plan, design, layout or any change in the on-site and technical regulations of this chapter, including fencing, landscaping, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.

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

#### D. Permitting Procedure for a High Impact Permit by Waiver of Protected Uses.

1. No application for a high impact permit by waiver of protected uses shall be accepted unless the written notarized waivers are obtained from all protected use property owners within six hundred feet of the proposed well site. Written notarized waivers granted by the all protected use property owners within a six hundred-foot radius around the proposed well must be filed, at the expense of the operator, in the applicable county records. All waivers must identify the property address, block and lot number, subdivision name and plat volume and page number. Copies of filed protected use property owner waivers must be submitted with the filing of a completed application for a high impact permit. If the operator fails to obtain written waivers from all property owners within a six hundred-foot radius around the proposed well, the operator must submit a request for a waiver to drill a high impact gas well from city council pursuant to the requirements of this section or modify the well location to comply with either an urban gas well permit or rural gas well permit.

2. Upon receipt of copies of all protected use waivers filed in the applicable county deed records and a completed application by the operator, the city shall notify, at operator's expense, each surface owner of property within one thousand feet of the proposed well not owned by or under lease to the operator. The notice shall contain the information as outlined below and shall also include an Internet link for information on gas drilling, the number of wells requested by the applicant, that drilling may commence within one hundred eighty days of the issuance of the permit, and contact telephone numbers for the city staff and operator/applicant. Notice shall be sent by the city to all registered neighborhood associations within one-half mile of the proposed drill site.

3. At least ten days prior to, but not more than thirty days from the date of filing of an application for a high impact gas well permit under this section with the city manager or designee, the operator, at operator's expense, shall erect at least one sign, no less than three feet by three feet, upon the premises upon which a high impact gas well by protected use waiver 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. The city manager or designee may require additional signage if the premise fronts on more than one right-of-way, street, roadway, or public thoroughfare.

a. The sign(s) shall substantially indicate that a high impact gas well permit by protected use waiver to drill for gas has been requested and shall further set forth that additional information can be acquired by telephoning the operator at the number indicated on the sign.

b. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this chapter.

c. Any sign(s) shall be removed subsequent to final action by the city manager or designee or the city council.

4. All notice provisions contained in this chapter shall be deemed sufficient upon substantial compliance with this section.

E. Wells Setbacks for High Impact Gas Well Permit. It is unlawful to drill any well, the center of which, at the surface of the ground, is located within six hundred feet from any public park (unless prior consent is obtained from the city council to drill in a public park) or from any residence, religious institution, public building, hospital building or school for which a building permit has been issued on the date of the application for a drilling permit is filed with the city manager or designee.

The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building or boundary line of a public park. This setback distance may be reduced, but never less than two hundred feet, from any residence, religious institution, public building, hospital building, school or public park with a:

1. Waiver granted by the city council; or

2. Written notarized waiver granted by all protected use property owners within a six hundred-foot radius around the proposed well pursuant to this section. All waivers must identify the property address, block and lot number, subdivision name (if applicable) and plat volume and page and be filed, at the expense of the operator, in the applicable county records prior to the application of high impact permit.

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

F. Fencing for High Impact Gas Well Permit. Fencing must comply with the requirements outlined in this chapter.

G. Landscaping. Landscaping shall be installed in compliance with the requirements outlined in this chapter.

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

I. Work Hours for High Impact Gas Well Permit. Site development, other than drilling, shall be pursuant to this chapter under technical regulations, "Work hours for site development." 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 daytime hours 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.

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

K. Closed Loop Mud Systems. A closed loop mud system shall be used in conjunction with all drilling and reworking operations for all high impact gas well permits.

L. All other provisions outlined in this chapter shall be required.

(Ord. 1210 § 1 (part), 2006)

#### 8.36.080 Gas well permit classifications--Urban well permit.

A. An urban gas well permit shall be required for all wells not included within the definition of a high impact gas well permit or rural gas well permit.

B. Notice for Urban Gas Well Permit.

1. At least ten days after the date of filing of an application for an urban gas well permit with the city manager or designee under this chapter, city shall notify, at the expense of the operator, each surface owner of property within one thousand feet of the proposed well not owned by or under lease to the operator. Such notice, as outlined below, shall be by depositing the same, properly addressed and postage paid, in the United States mail. The notice shall contain the information as outlined below and shall also include an Internet link for information on gas drilling, the number of wells requested by the applicant, that drilling may commence within one hundred eighty days from the issuance of the permit, and contact telephone numbers for city staff and operator/applicant. Notice shall be sent to all registered neighborhood associations within one-half mile of the proposed drill site.

2. At least ten days prior to, but not more than thirty days, the date of filing of an application for an urban gas well permit under this chapter with the city manager or designee, the operator, at operator's expense, shall erect at least one sign, no less than three feet by three feet, upon the premises upon which an urban 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. The

city manager or designee may require additional signage if the premise fronts on more than one right-of-way, street, roadway or public thoroughfare.

a. The sign(s) shall substantially indicate that an urban gas well permit to drill for gas has been requested and shall further set forth that additional information can be acquired by telephoning the operator at the number indicated on the sign.

b. The continued maintenance of any such sign shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this chapter.

c. The sign shall remain posted at the pad site for the duration of the urban gas well permit.

d. All notice provisions contained in this chapter shall be deemed sufficient upon substantial compliance with this section.

C. Fencing and Landscaping for Urban Gas Well Permit. Fencing and landscaping must comply with the requirements of this chapter.

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

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

F. Work Hours for Urban Gas Well Permit. Site development, other than drilling, shall be accomplished pursuant to this chapter under technical regulations "Work hours for site development." 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 daytime hours except in cases of fires, blowouts, explosions and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production.

G. All other provisions outlined in this chapter shall be required.

(Ord. 1210 § 1 (part), 2006)

8.36.090 Gas well permit classifications--Rural well permit.

A. Rural gas well permit shall be required if the proposed well is located on an open space of not less than twenty-five acres, and no operations on the operation site are to be conducted within one thousand feet of a public park or any residence, religious institution, public building, hospital building or school.

B. At least ten days prior to, but not more than thirty days, the date of filing with the city manager or designee, an application for a rural gas well permit under this chapter, the operator, at the operator's expense, shall erect at least one sign, no less than three feet by three feet, upon the premises upon which a rural 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. The city manager or designee may require additional signage if the premise fronts on more than one right-of-way, street, roadway or public thoroughfare.

1. The sign(s) shall substantially indicate that a rural gas well permit to drill for gas has been requested and shall further set forth that additional information can be acquired by telephoning the operator at the number indicated on the sign.

2. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this chapter.

3. The sign shall remain posted at the pad site for the duration of the rural gas well permit.

C. All notice provisions contained in this chapter shall be deemed sufficient upon substantial compliance with this section.

D. Fencing for Rural Gas Well Permit. Fencing must comply with the requirements as outlined in this chapter.

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

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

G. All other provisions outlined in this chapter shall be required.

(Ord. 1210 § 1 (part), 2006)

#### 8.36.100 Issuance of gas well permits.

A. It is the responsibility of the city manager to review and approve or disapprove all applications for gas well drilling permits based on the criteria established by this chapter. The city manager or designee, within thirty days after the filing of a completed application and remittance of all fees, insurance and security per the requirements of this chapter for a gas well permit, shall determine whether or not the application complies in all respects with the provisions of this chapter and determine if the proposed well to be drilled or the facility to be installed is in compliance with the distance requirements for the requested gas well permit on the date the completed application is received by the city manager or designee.

B. Failure of the city manager or designee to complete the review and issue a gas well permit within the time limits specified above shall not cause the application for the gas well permit to be deemed approved.

C. The provisions of this chapter shall apply to any dwellings or buildings for which an application for a building permit has been submitted on the date the application for a gas well permit is filed with the city manager or designee.

D. If all the requirements of this chapter are met, the city manager or designee shall issue a gas well permit for the drilling of the well or the installation of the facilities applied for.

E. If the city manager or designee denies an urban or rural gas well permit application for reasons other than lack of required distance as set out in this chapter for the requested gas well permit, he shall notify the operator in writing of such denial stating the reasons for the denial. Within thirty days of the date of the written decision of the city manager or designee to deny the gas well permit, the operator may: 1) cure those conditions that caused the denial and resubmit the application to the city manager or designee for approval and issuance of the gas well permit; or 2) file an appeal to the city council.

F. If the city manager or designee determines that all of the provisions of this chapter have been met by the operator but that the proposed drill site does not comply with the distance requirements of this chapter under the requested urban or rural gas well permit, the city manager or designee shall notify the operator. The operator may modify the well location to comply with either an urban gas well permit or rural gas well permit or resubmit the application for a high impact gas well permit. Operator must comply with all the application requirements for a high impact gas well permit.

(Ord. 1210 § 1 (part), 2006)

#### 8.36.110 Amended gas well permits.

A. An operator may submit an application to the city manager or designee to amend an existing 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 gas well permit, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing gas well permit, or to otherwise amend the existing gas well permit.

B. At least ten days prior to, but not more than thirty days, the date of filing with the city manager or designee an application for an amended gas well permit under this chapter, the operator shall erect the required signage. The city manager or designee may require additional signage if the premise fronts on more than one right-of-way, street, roadway or public thoroughfare.

C. Applications for amended gas well permits shall be in writing, shall be signed by the operator, and shall include the following:

1. The permit fee;
2. A description of the proposed amendments;
3. Any changes to the information submitted with the application for the existing gas well permit (if such information has not previously been provided to the city);
4. Such additional information as is reasonably required by the city manager or designee to demonstrate compliance with the applicable gas well permit;
5. Such additional information as is reasonably required by the city manager or designee to prevent imminent destruction of property or injury to persons; and
6. Evidence of posted signs, pursuant to the permit classification defined in this chapter, indicating that an application to drill additional well(s) on the existing lease has been submitted to the city manager or designee.

D. All applications for amended gas well permits shall be filed with the city manager or designee for review. Incomplete applications may be returned to the applicant, in which case the city shall provide a written explanation of the deficiencies. The city may return any application

as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator.

E. If the activities proposed by the amendment are not materially different from the activities covered by the existing gas well permit, and if the proposed activities are in conformance with the applicable gas well permit, then the city manager or designee shall approve the amendment within ten days after the application is filed.

F. If the activities proposed by the amendment are materially different from the activities covered by the existing gas well permit, and if the proposed activities are in conformance with the applicable gas well permit, then the city manager or designee shall approve the amendment within thirty days after the application is filed. If, however, the activities proposed by the amendment are materially different and, in the judgment of the city manager or designee, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing gas well permit or that was not otherwise taken into consideration by the existing gas well permit, the city manager or designee may require the amendment to be processed as a new gas well permit application.

G. Failure of the city manager or designee to complete the review and issue an amended gas well permit within the time limits specified above, it shall not cause the application for the amended gas well permit to be deemed approved.

H. The decision of the city manager or designee to deny an amendment to a 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 appeal any such denial to the city council.

(Ord. 1210 § 1 (part), 2006)

8.36.120 Suspension or revocation of a gas well permit--Issuance of a citation, effect.

A. If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a gas well permit (including any requirement incorporated by reference as part of the gas well permit), the city manager or designee 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 violation of the noise provisions, a risk of imminent destruction of property or injury to persons, or unless the failure involves the operator's failure to provide periodic reports as required by this chapter.

B. If the operator fails to correct the noncompliance within ten days from the date of the notice, the city manager or designee may suspend or revoke the gas well permit or issue a citation pursuant to the provisions of this chapter. A citation shall be issued for the failure to correct a noise violation within twenty-four hours of the notice of violation by either the city manager or designee or the city of Benbrook police department.

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



D. If the operator does not cure the noncompliance within the time specified in this chapter, the city manager or designee, upon written notice to the operator, may notify the commission and request that the commission take any appropriate action.

E. Operator may, within thirty days of the date of the decision of the city manager or designee in writing to suspend or revoke a gas well permit, file an appeal to the city council under the provisions outlined in this chapter.

F. If an application for a gas well permit is denied by the city manager or designee, nothing contained in this chapter shall prevent a new permit application from being submitted to the city manager or designee for the same well.

(Ord. 1210 § 1 (part), 2006)

#### 8.36.130 Periodic reports.

A. The operator shall notify the city manager or designee 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 city manager or designee of any change to the name, address, and twenty-four 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 thirty days after the operator has notice of the existence of such reports or complaints.

D. Beginning on December 31st after each well is completed, and continuing on each December 31st thereafter until the operator notifies the city manager or designee that the well has been abandoned and the site restored, the operator shall submit a written report to the city manager or designee identifying any changes to the information that was included in the application for the applicable gas well permit that have not been previously reported to the city.

E. Beginning on December 31st after each well is permitted by the city, the operator shall provide an operational status report for every well permitted to the operator within the city. The report shall include the well name, API number, lease name, commission permit number, commission lease ID number and current status whether pending, drilling, completing, producing, plugged or abandoned.

(Ord. 1210 § 1 (part), 2006)

#### 8.36.140 Insurance, bond and indemnity.

A. General Requirements. The operator shall be required to:

1. Comply with the terms and conditions of this chapter and the gas well permit issued hereunder;
2. Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed, or occurring in the operations, and after abandonment or completion grade, level and restore such property to the same surface conditions as nearly as possible as existed before operations;

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

a. Where such injuries, death or damages are caused by operator's sole negligence or the joint negligence of operator and any other person or entity, and

b. Regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of operator;

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

5. Promptly restore to its former condition any public property damaged by the gas operation.

B. Bond, Irrevocable Letter of Credit. Prior to the issuance of a gas well permit the operator shall provide the city manager or designee with a security instrument in the form of a bond or an irrevocable letter of credit as follows:

1. 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 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 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 chapter and the city. The original bond shall be submitted to the city manager or designee with a copy of the same provided to the city secretary.

2. Letter of Credit. A letter of credit shall be issued by a reliable bank authorized to do business in Texas and shall become effective on or before the date the gas well permit is issued. The letter of credit shall remain in force and effect for at least a period of six months after the expiration of the gas well permit term. If the letter of credit is for a time period less than the life of the well as required by this chapter, the operator must agree to either renew the letter of credit or replace the letter of credit with a bond in the amount required by this chapter, on or before forty-five days prior to the expiration date of the letter of credit. If the operator fails to deliver to the city of Benbrook either the renewal letter of credit or replacement bond in the appropriate amount on or before forty-five days prior to the expiration date of the letter of credit, the city of Benbrook may draw the entire face amount of the attached letter of credit to be held by the city of Benbrook as security for operator's performance of its obligations under this chapter. The city shall be authorized to draw upon such letter of credit to recover any fines or penalties assessed under this chapter. Evidence of the execution of a letter of credit shall be submitted to the city manager or designee by submitting an original signed letter of credit from the banking institution, with a copy of the same provided to the city secretary.

3. The principal amount of any security instrument shall be fifty thousand dollars for any single well. If, after completion of a well, the applicant/operator, who initially posted a fifty thousand dollar bond, has complied with all of the provisions of this chapter and whose well in the producing stage and all drilling operations have ceased, may submit a request to the city manager or designee for approval to reduce the existing bond to fifteen thousand dollars for the remainder of the time the well produces without reworking. During reworking operations, the amount of the bond or letter of credit shall be maintained at fifty thousand dollars. An operator drilling or

reworking between one and five wells at any given time, may elect to provide a blanket bond or letter of credit, in the principal minimum amount of one hundred fifty thousand dollars. If the operator drills or reworks more than five wells at a time, the blanket bond or letter of credit shall be increased in increments of fifty thousand dollars per each additional well. Once the wells are in the producing stage and all drilling operations have ceased, the operator may elect to submit a request to the city manager or designee for approval to reduce the existing bond and provide a blanket bond or letter of credit for the remainder of the time the well produces, without reworking, as follows:

TABLE INSET:

Number of Producing Wells Required	Blanket Bond/Letter of Credit Amount
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 fifteen-day written notice to the operator and a public hearing, the city council shall deem any operator's bond or letter of credit to be insufficient, it may require the operator to increase the amount of the bond or letter of credit up to a maximum of two hundred fifty thousand dollars per well.

4. Whenever the city manager or designee finds that a default has occurred in the performance of any requirement or condition imposed by this chapter, a written notice shall be given to the operator. Such notice shall specify the work to be done, the estimated cost and the period of time deemed by the city manager or designee to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the city one hundred twenty-five percent of the estimated cost of doing the work as set forth in the notice. In no event, however, shall the cure period be less than thirty days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this chapter. The city shall be authorized to draw against any irrevocable letter of credit or bond to recover such amount due from the operator. Upon receipt of such monies, the city shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of such 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 chapter.

5. In the event the operator does not cause the work to be performed and fails or refuses to pay over to the city the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the city against the applicable irrevocable letter of credit or bond the city may proceed to obtain compliance and abate the default by way of civil action against the operator, or by criminal action against the operator, or by both such methods.

6. When the well or wells covered by the irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this chapter, and in conformity with all regulations of the commission and notice to that effect has been received by the city, or upon

receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

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

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 employer's 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 in this chapter.

e. Certificates of insurance shall be delivered to the city of Benbrook, City Manager's Office, 911 Winscott, Benbrook, Texas 76126, evidencing all the required coverages, including endorsements, prior to the issuance of a gas well permit.

f. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the city.

g. Any failure on part of the city to request required insurance documentation shall not constitute a waiver of the insurance requirement specified in this chapter.

h. Each policy shall be endorsed to provide the city a minimum thirty-day notice of cancellation, nonrenewal, and/or material change in policy terms or coverage. A ten days' notice shall be acceptable in the event of nonpayment of premium.

i. During the term of the gas well permit, the operator shall report, in a timely manner, to the city manager or designee 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.

a. 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 contractor's protective liability and personal injury. This coverage shall be a minimum combined single limit of one million dollars per occurrence for bodily injury and property damage.

3. Excess or Umbrella Liability.

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

b. Ten million dollars excess, if the operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If seepage and pollution

coverage is written on a "claims made" basis, the operator must maintain continuous coverage and purchase extended coverage period insurance when necessary.

#### 4. Environmental Pollution Liability Coverage.

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

b. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.

c. The operator shall maintain continuous coverage and shall purchase extended coverage period insurance when necessary. The extended coverage period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the city.

#### 5. Control of Well.

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

b. Five million dollars per occurrence/no aggregate, if available, otherwise an aggregate of ten million dollars.

c. Five hundred thousand dollars sublimit endorsement may be added for damage to property for which the operator has care, custody and control.

#### 6. Workers Compensation and Employers Liability Insurance.

a. Workers compensation benefits shall be Texas statutory limits.

b. Employers liability shall be a minimum of five hundred thousand dollars per accident.

c. Such coverage shall include a waiver of subrogation in favor of the city and provide coverage in accordance with applicable state and federal laws.

#### 7. Automobile Liability Insurance.

a. Combined single limit of one million dollars 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. Set forth all endorsements and insurance coverage according to requirements and instructions contained in this chapter.

d. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the city. All policies shall be endorsed to read "THIS POLICY WILL NOT BE

CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCED WRITTEN NOTICE TO THE OWNER AND THE CITY EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED."

e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

9. Indemnification and Express Negligence Provisions.

a. Each gas well permit issued by the city manager or designee 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 Benbrook, and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the Operator under a Gas Well Permit. The Operator shall fully defend, protect, indemnify, and hold harmless the City of Benbrook, 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 Benbrook, Texas, its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by Operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the Operator under a Gas Well Permit. The Operator agrees to indemnify and hold harmless the City of Benbrook, Texas, its departments, 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, officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the City of Benbrook occurring on the drill site or operation site in the course and scope of inspecting and permitting the gas wells INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF BENBROOK OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE GAS WELLS. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY OF BENBROOK, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF BENBROOK, 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.

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

11. Acceptance and Indemnity Agreement. The operator who has a net worth of not less than twenty-five million dollars, as shown in such owner's or operator's most recent audited financial statements, may substitute an acceptance and indemnity agreement in lieu of the bond or irrevocable letter of credit and insurance requirements set forth in this chapter, provided that such acceptance and indemnity agreement shall be in a form acceptable to, and approved by, the city attorney and risk management of the city. The city manager or designee may request an annual review of the operator's most recent audited financial statements to assure compliance with this section.

(Ord. 1210 § 1 (part), 2006)

#### 8.36.150 On-site and technical regulations.

##### A. On-Site Requirements.

1. Abandoned Wells. All wells shall be abandoned in accordance with the rules of the railroad commission and pursuant to this chapter.
2. Blowout Prevention. In all cases, blowout prevention equipment shall be used on all wells being drilled, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout during gas operations as required by and in conformance with the requirements of the commission and the recommendations of the American Petroleum Institute. The operator must equip all drilling wells with adequate blowout preventers, flowlines 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 gas operation or the contents of any container used in connection with any gas operation in, into, or upon any public right-of-way, alleys, streets, lots, storm drain, ditch or sewer, sanitary drain without permits from the appropriate city departments or any body of water or any private property in the city.
5. Drilling Notice. The operator shall provide forty-eight hour notice to the city manager or designee before the start of drilling operations.
6. 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 and flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.
7. Dust, Vibration, Odors. All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of gas and other hydrocarbon substances in urban areas. All equipment used shall be so constructed and operated so that, vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

8. Electric Lines. All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision.
9. Electric Motors. Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the city ordinances and the appropriate national codes.
10. Emergency Response Plan. Prior to the commencement of any gas or other hydrocarbons production activities, operator shall submit to the city manager or designee an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of gas wells. Such plan shall use existing guidelines established by the commission, Texas Natural Resource Conservation Commission, Department of Transportation and/or the Environmental Protection Agency and City Fire Code. A copy of the emergency response plan shall be kept on-site.
11. Equipment Painted. All production equipment on the site shall be painted and maintained at all times, including pumping units, storage tanks, buildings and structures.
12. Explosives. Use of explosive charges within the city limits shall require a permit issued by the city of Benbrook fire department.
13. Fire Notice. In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the operator shall immediately report such condition to the fire department in accordance with the city of Benbrook fire code. The reporting limits for hazardous materials release shall conform to the requirements of the railroad commission and not exceed any state or federal permitting limit. A copy of the hazardous materials release records required by TCEQ shall be forwarded to the fire marshal on an annual basis.
14. 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 wellheads shall contain an appropriately labeled emergency shutoff valve to the well distribution line.
15. Fracing Operations. All formation fracture stimulation operations shall be conducted during daylight hours unless the operator has notified and obtained permission from the city manager or designee for operations during nighttime hours.
  - a. The following requirements shall apply to all fracture stimulation operations performed on a well within six hundred feet of an occupied residence:
    - i. At least forty-eight hours before operations are commenced, the operator shall notify the city manager or designee and post a sign at the entrance of the well site advising the public of the date the operations will commence;
    - ii. "Flowback" operations to recover fluids used during fracture stimulation shall be exempt from work hour restrictions;
    - iii. A watchman shall be required at all times during such operations; and
    - iv. 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.
16. Freshwater Wells. It is unlawful to drill any well, the center of which, at the surface of the ground, is located within two hundred feet to any existing freshwater well. The measurement shall be in a direct line from the closest well bore to the freshwater well bore.



- a. The operator of a gas well shall provide the city manager or designee with a "pre-drilling" and "post-drilling" water analysis and flowrate from any existing freshwater well within five hundred feet of the gas well.
  - b. An operator may drill a freshwater well, in compliance with state law, to use for drilling and completion operations within two hundred feet of the well house, however, a well that is used for drilling and production operations is excluded from the two hundred feet setback for future wells drilled on the permitted pad site.
  - c. A copy of the Texas water development board permit shall be provided to the city manager or designee along with the geographic coordinates of every water well within five hundred feet of the well bore.
  - d. A copy of all plugging and abandonment reports filled with the state and/or transfer of ownership notice shall be provided to the city manager or designee.
  - e. The operator of a gas well shall provide the city manager or designee with a "pre-drilling" and "post-drilling" water analysis from the freshwater well if the well is transferred to private or public use.
17. Gas Lift Compressor. Any on-site compressor used to "lift gas" shall be designed to comply with the noise requirements of this chapter.
18. Gas Emission or Burning Restricted. No person shall allow, cause or permit gases to vent 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 three hundred feet from any building not used in operations on the drilling site and such vent or open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.
19. Gas Processing On-Site. Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises without appropriate city permits and a certificate of occupancy.
20. Grass, Weeds, Trash. All drill and operation sites shall be kept clear of high grass, weeds, and combustible trash within a radius of one hundred feet around any gas tank or tanks or producing wells.
21. Hazardous Plan. Hazardous materials management plan (HMMP) and all material safety data sheets (MSDS) for all hazardous materials that will be located, stored, transported and/or temporarily used on the operations site shall be submitted to the city manager or designee.
22. Lights. No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three hundred feet.
23. Muffling Exhaust. Exhaust from any internal combustion engine or compressor, 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 disruptive vibrations and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.
24. Pits. The following applies for pits used for drilling and completion operations:
- a. Lined earthen mud or circulating pits or a closed loop mud system shall be used;

- b. Closed loop mud systems shall be used for all high impact gas well permit sites unless a waiver is granted by the city council;
- c. All pits and contents shall be dewatered, backfilled and compacted following the schedule established by the statewide rules of the railroad commission;
- d. No drill cuttings, rotary mud and wastewater generated during drilling operations may be buried on-site unless permitted by the Texas railroad commission and approved by the city after submission of an acceptable pre-burial test;
- e. No pit shall be placed in a floodplain without obtaining a floodplain development permit from the city department of development;
- f. The freshwater fracing pit shall be enclosed with open design chainlink black or dark green fencing on all four sides. No freshwater pit may be placed in any city recognized drainage way, FEMA floodplain or floodway. Construction of the freshwater pit must comply with all city, state and federal regulations;
- g. Every drill pit used for drilling operations shall be fenced on all open sides during drilling operations and enclosed on all four sides with a chainlink fence after drilling operations have ceased;
- h. No flowback wastewater produced by frac operations shall be placed in any open pit without a copy of a valid state permit submitted to the city manager or designee;
- i. Freshwater fracing pits, not transferred to the surface owner, shall be closed and the site restored within one hundred twenty days after completion operations have ceased unless extended by the city manager or designee.

25. Private Roads and Drill Sites. Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site itself shall be at least fifteen feet wide, drain appropriately, have an overhead clearance of fourteen feet and be surfaced with a crushed rock, gravel or ore and maintained to prevent dust and mud. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the city manager or designee after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind. Watering, wetting or other methods or materials must be used to control the dust on all roads adjacent to residential property.

26. A permanent approach, meeting the city design requirements, and gate shall be constructed at the entrance of the access road onto a public street within sixty days after drilling operations have ceased or at the request of the city manager or designee.

27. Saltwater Wells. No commercial saltwater disposal wells shall be located within the city of Benbrook.

a. A city permit for a noncommercial saltwater disposal well for lease use only, as identified on the railroad commission form W-14, may be issued if:

- i. The well is located in industrial zoned districts;
- ii. All permit and notification requirements to obtain a state permit are reviewed by the city manager or designee prior to obtaining the state permit;
- iii. A state permit is obtained from the commission to dispose of nonhazardous oil and gas waste by injection into a porous formation not productive of oil and gas;
- iv. The saltwater disposal well waste is injected into the Ellenberger Formation;
- v. The saltwater disposal well is cased and cemented to the surface;

- vi. The disposal well permit must be approved by the city council if the well is located within one thousand feet of a protected use;
  - vii. The disposal well is in compliance with all conditions of the state permit; and
  - viii. The disposal well is in compliance with any restrictions placed on the city permit.
- b. The city shall have the right to terminate the saltwater disposal permit and required the well to be plugged and abandoned within thirty days after notice of noncompliance.

#### 28. Signs.

- a. A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to this chapter. Such sign shall be of 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:
- i. Well name and number;
  - ii. Name of operator;
  - iii. The emergency 911 number; and
  - iv. 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 OR OPEN FLAME ALLOWED IN THIS AREA" "PELIGRO NO FUMAR O INICIAR LLAMA EN ESTA AREA," shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by the fire chief of the city. Sign lettering shall be four 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.
- c. In accordance with the Benbrook Fire Code, diamond hazard identification signs are required on each tank and at the entrance to the site adjacent to the operator's sign. A label must be located on each tank indicating exact chemicals that may be contained in the tank. Text shall be minimum six inches in height, contrasting with the background color.

29. Storage of Equipment. On-site storage is prohibited on the operation site. No equipment shall be stored on the drilling or production operation site unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site. No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for drilling or production operations on the site. The fire department shall be the entity that determines whether equipment on the site shall constitute a fire hazard.

30. Storage Tanks. All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the fire chief. All storage tanks shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be a minimum of three feet 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. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tanks.

a. Temporary flowback tanks shall be removed within ninety days after completion of the gas well(s) at the pad site unless permission is obtained from the city manager or designee to extend the time period for no more than thirty days.

b. All tanks shall be set back pursuant to the standards of the commission and the National Fire Protection Association, but in all cases, shall be at least twenty-five feet from any public street, road, highway or future street, or right-of-way and fifty feet from a structure. 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.

c. No meters, storage tanks, separation facilities, or other aboveground facilities, other than the wellhead and flowlines, shall be placed in a floodway identified by FEMA on the most current FIRM or the one hundred-year floodplain without a floodplain development permit.

d. Tanks must be at least one hundred feet from any residence, religious institution, public building, hospital building, school or combustible structure.

31. Tank Battery Facilities. Tank battery facilities shall be equipped with a lightning arrestor system.

32. Surface Casing. Surface casing shall be run and set in full compliance with the applicable rules and regulations of the commission.

33. Valves. Each well must have a shutoff valve to terminate the well's production. The fire department shall have access to the well site and the shutoff valve in an emergency.

34. Waste Disposal. Unless otherwise directed by the commission, all tanks used for storage shall conform to the following:

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

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

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

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

35. Watchman. The operator must keep a watchman or security personnel onsite during the drilling or reworking of a well when other workmen are not on the premises.

36. Wellhead Status after Fracing. All wellheads waiting on completion, for a period greater than ten days, shall be:

a. Completed through the production casing flange with a metal plate or blind flange bolted across the head;

b. Surrounded with a six feet tall chainlink fence having a gate and lock;

c. The cellar shall be filled or closed; and

d. The bradenhead shall be piped to the surface and open to the atmosphere or have an observable and adequate pressure gauge with operable test valve.

37. Work Hours for Site Development. No construction activities involving excavation of, demolition of, alteration to, or repair work on any access road or pad site, shall occur during nighttime hours or at any time on Sunday.

B. Noise.

1. 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 nearest protected use receiver's/receptor's property line or one hundred feet from the nearest protected use structure (as measured to the closest exterior point of the building), whichever is closer to the receiver/receptor, that exceeds the ambient noise level by more than five decibels during daytime hours and more than three decibels during nighttime hours. Fracing operations may not exceed the ambient noise level by more than ten decibels. Backflow operations may not exceed the ambient noise level by more than five decibels during nighttime hours.
2. The operator shall be responsible for establishing and reporting to the city the pre-drilling ambient noise level prior to the issuance of a gas well permit. Once the drilling is complete, the operator shall be required to establish a new ambient noise level prior to the installation of any new noise generation equipment.
3. Adjustments to the daytime noise standards as set forth above in subsection (B)(1) of this section may be permitted in accordance with the following:

TABLE INSET:

Permitted Increase (dBA)	Duration of Increase (minutes)*
5	15
10	5
15	1
20	less than 1

\* Cumulative minutes during any one hour

4. All workover operations shall be restricted to daytime hours. "Workover operations" shall mean work performed 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.
5. The exterior noise level generated by the drilling, redrilling or other operations of all gas wells located within six hundred feet of a protected use shall be continuously monitored, to ensure compliance. The cost of such monitoring shall be borne by the operator.
6. Acoustical blankets, sound walls, mufflers or other alternative methods as approved by the city manager or designee may be used to ensure compliance. All soundproofing shall comply with accepted industry standards and subject to approval by the city's fire department.
7. The sound level meter used in conducting noise evaluations shall meet the American National Standard Institute's standards for sound meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.
8. A citation shall be issued for the failure to correct the violation within twenty-four hours of the notice of violation by either the city manager or designee or the city of Benbrook police.
9. During nighttime operations for high impact and urban gas wells, the operation of vehicle audible backup alarms shall be prohibited or replaced with approved non-auditory signaling systems, such as spotters or flagmen. Deliveries of pipe, casing and heavy loads shall be limited to daytime hours, except for emergency situations. The derrick man and driller shall

communicate by walkie-talkie or other nondisruptive means only when the derrick man is in the derrick. Horns may not be used to signal for connection or to summon crew (except that a horn may be used for emergency purposes only). The operator shall conduct on-site meetings to inform all personnel of nighttime operations noise control requirements.

C. Well Setbacks. It is unlawful to drill any well, the center of which, at the surface of the ground, is located:

1. Within twenty-five feet from any storage tank, or source of ignition;
2. Within seventy-five feet of any public street, road, highway or future street, right-of-way or property line;
3. Within six hundred feet from any protected use;
4. Within two hundred feet from any building used, or designed and intended to be used, for human occupancy;
5. Within one hundred feet of any building accessory to, but not necessary to the operation of the well; or
6. Within two hundred feet to any freshwater well not drilled by the operator as a specific source of water used for drilling or completion operations without the express written permission of the owner of the water well. The measurement shall be in a direct line from the closest well bore to the freshwater well bore. The distance requirement for freshwater wells is subject to the railroad commission regulations and any other state or federal requirements.
7. The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any object listed in subsections (C)(1) through (6) of this section.
8. The distance set out in subsection (C)(3) of this section may be reduced, but never less than two hundred feet from any protected use, with a:
  - i. Waiver granted by the city council; or
  - ii. Written notarized waivers granted by all the protected use property owners within a six hundred-foot radius around the proposed well pursuant to this chapter. All waivers must identify the property address, block and lot number, subdivision name (if applicable) and plat volume and page and be filed, at the expense of the operator, in the applicable county records prior to the application of high impact permit.

D. 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 gas well permit issued pursuant to this chapter. Operator shall:

1. Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such rights-of-way.
2. Furnish to the director of development of the city a plat showing the location of such pipelines.
3. Construct such lines out of pipe in accordance with the city codes and regulations properly cased and vented if under a street.
4. Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed when operations for the drilling of the well were first commenced.
5. No gas well permit shall be issued for any well to be drilled within any of the streets or alleys of the city and/or projected streets or alleys shown by the current comprehensive plan of the city, and no street or alley shall be blocked or encumbered or closed due to any exploration, drilling or

production operations unless prior consent is obtained from the city manager or designee. Any consent from the city manager or designee 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. 1210 § 1 (part), 2006)