

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, AMENDING SUBSECTION 35.5 OF THE DENTON DEVELOPMENT CODE, PERTAINING TO THE SELF-SERVICE STORAGE USE AND ADDING A LIMITATION 35 (L35) TO PROVIDE REQUIREMENTS FOR SELF-STORAGE USE; AND PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance No. 2002-040, the City Council of the City of Denton, Texas adopted the Denton Development Code (the "Development Code"); and

WHEREAS, Subsection 35.5 of the Development Code provides for zoning districts and limitations on uses in the City of Denton; and

WHEREAS, the City staff, in reviewing the zoning district and use classifications in which a self-storage use would be permitted, has determined that the modifications in this Ordinance will be a benefit to the City of Denton; and

WHEREAS, City staff has likewise determined that it will be a benefit to the City of Denton to include limitations for self-storage uses; and therefore, the City desires to add Limitation 35 (L35) to the Development Code in order to provide such limitations; and

WHEREAS, after providing notice and after conducting a public hearing as required by law, the Planning and Zoning Commission recommended approval of certain changes to Subsection 35.5 of the Development Code; and

WHEREAS, after providing notice and after conducting a public hearing as required by law, the City Council finds that the subject changes to the Denton Development Code are consistent with the Comprehensive Plan and are in the best interest of the health, safety, morals, and general welfare of the citizens of the City of Denton and the subject changes should therefore be granted; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference as true.

SECTION 2. That Subchapter 35.5 of the Denton Development Code of the City of Denton is amended as set forth in Exhibit A, attached hereto and incorporated herein.

SECTION 3. Any person, firm, partnership, or corporation violating any provision of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined a sum not exceeding \$2,000.00 for each offense. Each day that a provision of this ordinance is violated shall constitute a separate and distinct offense.

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

SECTION 5. In compliance with Section 2.09(c) of the Denton Charter, this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record-Chronicle, a daily newspaper published in the City of Denton, Texas, within ten (10) days of the date of its passage.

PASSED AND APPROVED this the _____ day of _____, 2017.

CHRIS WATTS, MAYOR

ATTEST:

JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

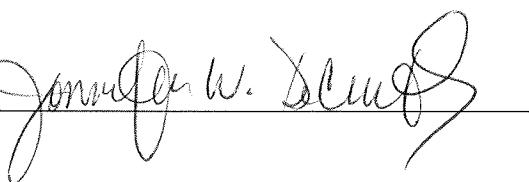
BY: 

Exhibit A

Subchapter 5

Subchapter 5 - Zoning Districts and Limitations

35.5.1. Rural Districts.

35.5.1.1. Purpose.

The purpose of a Rural District is to maintain an area of rural use within the City of Denton. Application of this district will ensure that the farming, forest, environmental and scenic values of these areas are protected from incompatible development that may result in a degradation of their values. Land Use categories within a Rural District include:

RD-5	Rural Residential
RC	Rural Commercial

35.5.1.2. Permitted Uses.

The following uses and their accessory uses are permitted as contained in the use table below:

<i>Residential Land Use Categories</i>	<i>RD-5</i>	<i>RC</i>
Accessory Dwelling Units	P	P
Agriculture	P	P
Attached Single-family Dwellings	N	N
Community Homes For the Disabled	P	P
Dormitory	N	N
Duplexes	N	N
Dwellings Above Businesses	N	P
Fraternity or Sorority House	N	N
Group Homes	SUP	SUP
Livestock	L(7)	L(7)
Live/Work Units	P	P
Manufactured Housing Developments	P	P
Multi-Family Dwellings	N	SUP
Residential Land Use Categories	RD-5	RC
Single-family Dwellings	P	P

P = Permitted,
 N = Not permitted,
 SUP = Specific Use Permit Required,
 L(X) = Limited as defined in Section 35.5.8

<i>Commercial Land Use Categories</i>	<i>RD-5</i>	<i>RC</i>
Administrative or Research Facilities	SUP	L(15)
Auto and RV Sales	N	N
Bar	N	L(11)
Bed and Breakfast	L(10)	P
Broadcasting of Production Studio	SUP	P
Commercial Land Use Categories	RD-5	RC
Commercial Parking Lots	N	N
Drive-through Facility	N	N
Equestrian Facilities	P	P
Home Occupation	P	P
Hotels	N	N
Indoor Recreation	N	N
Laundry Facilities	N	N
Major Event Entertainment	N	SUP
Motels	N	N
Movie Theaters	N	N
Outdoor Recreation	P	P
Private Club	N	L(11)
Professional Services and Offices	N	L(15)
Quick Vehicle Servicing	N	N
Restaurant	N	L(11)
Retail Sales and Service	N	N
Sale of Products Grown on Site	P	P

Self-service Storage	N	N
Sexually Oriented Business	N	SUP/ L(32)
Temporary Uses	L(38)	L(38)
Vehicle Repair	N	P
P = Permitted, N = Not permitted, SUP = Specific Use Permit Required, L(X) = Limited as defined in Section 35.5.8		

<i>Industrial Land Use Categories</i>	<i>RD-5</i>	<i>RC</i>
Bakeries	N	L(21)
Compressor Stations	N	N
Construction Materials Sales	N	N
Craft Alcohol Productin	N	SUP
Distribution Center/Warehouse, General	N	N
Feed Lots	SUP	N
Food Processing	N	N
Gas Wells	L(27)	L(27)
Heavy Manufacturing	N	N
Junk Yards and Auto Wrecking	N	N
Kennels	L(14)	L(14)
Light Manufacturing	N	SUP/L(24)
Manufacture of Non-odoriferous Foods	N	N
Printing/Publishing	N	N
Sanitary Landfills, Commercial Incinerators, Transfer Stations	N	N
Veterinary Clinics	P	P
Warehouse, Retail	N	N
Wholesale Nurseries	P	P
Wholesale Sales	N	N

Wrecker Services and Impound Lots	N	N
P = Permitted, N = Not permitted, SUP = Specific Use Permit Required, L(X) = Limited as defined in Section 35.5.8		

<i>Institutional Land Use Categories</i>	<i>RD-5</i>	<i>RC</i>
Adult or Child Day Care	P	P
Basic Utilities	P	P
Business/Trade School	N	N
Cemeteries	N	N
Churches	P	P
Colleges	N	N
Community Service	N	P
Conference/Convention Centers	N	N
Elderly Housing	N	N
Electric Substations and Switch Stations	P	P
High School	N	N
Hospital	N	N
Kindergarten, Elementary School	P	P
Medical Centers	N	N
Middle School	N	N
Mortuaries	N	N
Parks and Open Space	P	P
Semi-public, Halls, Clubs, and Lodges	N	P
WECS (Building-mounted)	L(42)	L(42)
WECS (Free-standing Monopole Support Structure)	L(41)	L(41)
P = Permitted, N = Not permitted,		

SUP=Specific Use Permit Required,
L(X) = Limited as defined in Section 35.5.8

35.5.1.3. General Regulations.

General regulations within the Rural District are as follows:

Subdivision of less than ten (10) acres, and all lots that are adjacent to the perimeter of a subdivision:

<i>General Regulations</i>	<i>RD-5</i>	<i>RC</i>
Minimum lot area	5 acres	2 acres
Minimum lot width	200 feet	100 feet
Minimum lot depth	250 feet	200 feet
Minimum front yard	50 feet	50 feet
Minimum side yard	10 feet	10 feet
Minimum side yard adjacent to street	50 feet	50 feet
Minimum rear yard	10 feet, plus 1 foot for each foot of building height over 20 feet	

The following limits apply to subdivision of more than ten (10) acres in lieu of minimum lot size and dimension requirements:

<i>General Regulations</i>	<i>RD-5</i>	<i>RC</i>
Maximum density, dwelling units per acre	0.2	0.5
Minimum building separation	30 feet	30 feet

The following limits apply to all buildings:

<i>General Regulations</i>	<i>RD-5</i>	<i>RC</i>
Maximum lot coverage except for agricultural buildings	15%	35%
Minimum landscaped area	75%	65%
Maximum building height	65 feet	65 feet
Maximum WECS height	75 feet	75 feet

Maximum FAR except for single-family uses	None	0.25
Minimum yard when a use other than single-family abuts a residential zone	None	10 feet, plus 1 foot for each foot of building height

35.5.2. Neighborhood/Residential.

35.5.2.1. Purpose.

The purpose of the Neighborhood Residential land use is to preserve and protect existing neighborhoods and to ensure that any new development is compatible with existing land uses, patterns, and design standards. Land Use categories within the Neighborhood Residential areas include:

NR-1	Neighborhood Residential 1
NR-2	Neighborhood Residential 2
NR-3	Neighborhood Residential 3
NR-4	Neighborhood Residential 4
NR-6	Neighborhood Residential 6
NRMU-12	Neighborhood Residential Mixed Use 12
NRMU	Neighborhood Residential Mixed Use

35.5.2.2. Permitted Uses.

The following uses and their accessory uses are permitted within the Neighborhood Residential districts:

Residential Land Use Categories	NR-1	NR-2	NR-3	NR-4	NR-6	NRMU-12	NRMU
Accessory Dwelling Units	SUP L(1)	SUP L(1)	SUP L(1)	SUP L(1)	SUP L(1)	L(1)	N
Agriculture	P	P	P	P	P	P	P
Attached Single-family Dwellings	N	N	SUP	SUP	P	P	L(40)
Community Homes For the Disabled	P	P	P	P	P	P	P
Dormitory	N	N	N	N	N	SUP	SUP

Duplexes	N	N	N	L(3)	P	P	N
Dwellings Above Businesses	N	N	N	N	N	P	P
Fraternity or Sorority House	N	N	N	N	N	SUP	SUP
Group Homes	N	N	N	N	N	SUP	SUP
Livestock	L(7)	L(7)	L(7)	L(7)	L(7)	L(7)	L(7)
Live/Work Units	N	N	N	N	L(16)	P	P
Manufactured Housing Developments	N	SUP	N	N	SUP	N	N
Multi-Family Dwellings	N	N	N	N	N	L(4)	SUP L(4)
Single-family Dwellings	P	P	P	P	P	P	N
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8							

<i>Commercial Land Use Categories</i>	<i>NR-1</i>	<i>NR-2</i>	<i>NR-3</i>	<i>NR-4</i>	<i>NR-6</i>	<i>NRMU-12</i>	<i>NRMU</i>
Administrative or Research Facilities	N	N	N	N	N	N	L(14)
Auto and RV Sales	N	N	N	N	N	N	N
Bar	N	N	N	N	N	N	L(11)
Bed and Breakfast	N	N	N	N	N	L(10)	P
Broadcasting of Production Studio	N	N	N	N	N	N	L(14)
Commercial Parking Lots	N	N	N	N	N	N	N
Drive-through Facility	N	N	N	N	N	N	SUP
Equestrian Facilities	SUP	SUP	N	N	N	N	N
Home Occupation	P	P	P	P	P	P	P
Hotels	N	N	N	N	N	N	P
Indoor Recreation	N	N	N	N	N	N	N
Laundry Facilities	N	N	N	N	N	P	P
Major Event Entertainment	N	N	N	N	N	N	N
Motels	N	N	N	N	N	N	N
Movie Theaters	N	N	N	N	N	N	N
Outdoor Recreation	P	P	P	P	P	SUP	SUP

Private Club	N	N	N	N	N	N	L(11)
Professional Services and Offices	N	N	N	N	N	L(14)	L(17)
Quick Vehicle Servicing	N	N	N	N	N	N	SUP
Restaurant	N	N	N	N	N	N	L(11)
Retail Sales and Service	N	N	N	N	N	L(15)	L(17)
Sale of Products Grown on Site	N	N	N	N	N	N	N
Self-service Storage	N	N	N	N	N	N	N
Sexually Oriented Business	N	N	N	N	N	N	N
Temporary Uses	L(38)						
Vehicle Repair	N	N	N	N	N	N	N
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8							

<i>Industrial Land Use Categories</i>	<i>NR-1</i>	<i>NR-2</i>	<i>NR-3</i>	<i>NR-4</i>	<i>NR-6</i>	<i>NRMU-12</i>	<i>NRMU</i>
Bakeries	N	N	N	N	N	N	L(21)
Compressor Stations	N	N	N	N	N	N	N
Construction Materials Sales	N	N	N	N	N	N	N
Craft Alcohol Production	N	N	N	N	N	N	SUP
Distribution Center/Warehouse, General	N	N	N	N	N	N	N
Feed Lots	N	N	N	N	N	N	N
Food Processing	N	N	N	N	N	N	N
Gas Wells	L(27)	L(27)	L(27)	L(27)	L(27)	L(27)	L(27)
Heavy Manufacturing	N	N	N	N	N	N	N
Junk Yards and Auto Wrecking	N	N	N	N	N	N	N
Kennels	L(37)	L(37)	N	N	N	N	N
Light Manufacturing	N	N	N	N	N	N	N
Manufacture of Non-odoriferous Foods	N	N	N	N	N	N	N
Printing/Publishing	N	N	N	N	N	N	N

Sanitary Landfills, Commercial Incinerators, Transfer Stations	N	N	N	N	N	N	N
Veterinary Clinics	L(14)	L(14)	N	N	N	N	P
Warehouse, Retail	N	N	N	N	N	N	N
Wholesale Nurseries	N	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N	N
Wrecker Services and Impound Lots	N	N	N	N	N	N	N
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8							

<i>Institutional Land Use Categories</i>	<i>NR-1</i>	<i>NR-2</i>	<i>NR-3</i>	<i>NR-4</i>	<i>NR-6</i>	<i>NRMU-12</i>	<i>NRMU</i>
Adult or Child Day Care	SUP	SUP	SUP	SUP	SUP	P	P
Basic Utilities	L(25)	L(25)	L(25)	L(25)	L(25)	L(25)	L(25)
Business/Trade School	N	N	N	N	N	N	L(14)
Cemeteries	N	N	N	N	N	N	N
Churches	P	P	P	P	P	P	P
Colleges	N	N	N	N	N	N	N
Community Service	N	N	N	N	N	P	P
Conference/Convention Center	N	N	N	N	N	N	N
Elderly Housing	N	N	N	N	SUP	L(13)	P
Electric Substations and Switch Stations	L(43)	L(43)	L(43)	L(43)	L(43)	L(43)	L(43)
High School	N	N	N	N	N	N	SUP
Hospital	N	N	N	N	N	N	N
Kindergarten, Elementary School	SUP	SUP	SUP	SUP	SUP	P	P
Medical Centers	N	N	N	N	N	N	P
Middle School	N	N	N	N	N	P	P
Mortuaries	N	N	N	N	N	N	N
Parks and Open Space	P	P	P	P	P	P	P
Semi-public, Halls, Clubs, and Lodges	SUP	SUP	SUP	SUP	SUP	L(15)	P

WECS (Building-mounted)	L(42)	SUP	SUP	SUP	SUP	SUP	SUP
WECS (Free-standing Monopole Support Structure)	L(41)	SUP	SUP	SUP	SUP	SUP	SUP
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8							

35.5.2.3. General Regulations.

General regulations of the Residential Neighborhood land use zone are contained in the table below:

The following limits apply to subdivision of two (2) acres or less:

General Regulations	NR-1	NR-2	NR-3	NR-4	NR-6	NRMU-12	NRMU
Minimum lot area (square feet)	32,000	16,000	10,000	7,000	6,000	3,500	2,500
Minimum lot width	80 feet	80 feet	60 feet	50 feet	50 feet	30 feet	20 feet
Minimum lot depth	100 feet	100 feet	80 feet	80 feet	80 feet	80 feet	50 feet
Minimum front yard setback	20 feet	20 feet	15 feet L(2)	20 feet L(2)	10 feet	10 feet	None
Minimum side yard	6 feet	6 feet	6 feet	6 feet	6 feet	6 feet	6 feet
Minimum side yard adjacent to a street	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet	None
Minimum rear yard	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet	None

The following limits apply to subdivision of more than two (2) acres in lieu of minimum lot size and dimension requirements:

General Regulations	NR-1	NR-2	NR-3	NR-4	NR-6	NRMU-12	NRMU
Maximum density, dwelling units per acre	1	2	3.5	4	6	12	30

Minimum side yard for non-attached buildings	20 feet	10 feet	6 feet	5 feet	4 feet	10 feet	12 feet
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The following limits apply to all buildings:

<i>General Regulations</i>	<i>NR-1</i>	<i>NR-2</i>	<i>NR-3</i>	<i>NR-4</i>	<i>NR-6</i>	<i>NRMU-12</i>	<i>NRMU</i>
Maximum lot coverage	30%	30%	50%	60%	60%	60%	80%
Minimum landscaped area	70%	70%	50%	40%	40%	40%	20%
Maximum building height	40 feet	65 feet					
Maximum WECS height	55 feet	75 feet					
Minimum yard when abutting a single-family use or district	10 feet plus 1 foot for each foot of building height above 20 feet	10 feet plus 1 foot for each foot of building height above 20 feet	10 feet plus 1 foot for each foot of building height above 20 feet	10 feet plus 1 foot for each foot of building height above 20 feet	10 feet plus 1 foot for each foot of building height above 20 feet	15 feet plus 1 foot for each foot of building height above 20 feet	20 feet plus 1 foot for each foot of building height above 20 feet

35.5.2.4. Mixed Use Residential Protection Overlay.

Where necessary to address the concerns of owners of existing adjacent residential uses that a proposed non-residential or multi-family mixed use allowed by this Subchapter is incompatible, the applicant may consent to the imposition of increased setback, landscaping, screening or buffer requirements along the borders of such existing residential uses, or to the imposition of additional use or performance-based restrictions upon the proposed use. Such additional modifications or restrictions shall, upon approval, amend the underlying zoning classification and use designation to add these supplemental requirements. The Mixed Use Residential Protection Overlay may be established through the Zoning Amendment Procedure, either as a separate zoning case, or in conjunction with an amendment of the underlying mixed use zoning classification.

35.5.3. Downtown University Core.

35.5.3.1. Purpose.

The purpose of the Downtown University Core District is to encourage mixed use developments within specified commercial areas of the district. This district is a pedestrian friendly district. Land Use categories within this district include:

DR-1	Downtown Residential 1
DR-2	Downtown Residential 2
DC-N	Downtown Commercial Neighborhood
DC-G	Downtown Commercial General

35.5.3.2. Permitted Uses.

The following uses are permitted within the Downtown University Core District:

<i>Residential Land Use Categories</i>	<i>DR-1</i>	<i>DR-2</i>	<i>DC-N</i>	<i>DC-G</i>
Accessory Dwelling Units	P	P	N	N
Agriculture	P	P	P	P
Attached Single-family Dwellings	N	P	P	P
Community Homes For the Disabled	P	P	P	P
Dormitory	SUP	P	P	P
Duplexes	P	P	P	N
Dwellings Above Businesses	N	P	P	P
Fraternity or Sorority House	SUP	P	P	P
Group Homes	N	N	N	SUP
Livestock	L(7)	L(7)	L(7)	L(7)
Live/Work Units	P	P	P	P
Manufactured Housing Developments	N	N	N	N
Multi-Family Dwellings	N	L(5)	L(5)	L(5)
Single-family Dwellings	P	P	N	N

P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8

<i>Commercial Land Use Categories</i>	<i>DR-1</i>	<i>DR-2</i>	<i>DC-N</i>	<i>DC-G</i>
Administrative or Research Facilities	N	SUP	L(14)	P
Auto and RV Sales	N	N	N	L(20)
Bar	N	N	L(11)	P
Bed and Breakfast	L(8)	L(9)	P	P
Broadcasting of Production Studio	N	SUP	P	P
Commercial Parking Lots	N	N	L(28)	L(28)
Drive-through Facility	N	N	N	SUP
Equestrian Facilities	N	N	N	N
Home Occupation	P	P	P	P
Hotels	N	N	N	P
Indoor Recreation	N	N	N	P
Laundry Facilities	N	P	P	P
Major Event Entertainment	N	N	N	SUP
Motels	N	N	N	N
Movie Theaters	N	N	SUP	SUP
Outdoor Recreation	N	N	N	N
Private Club	N	N	L(11)	P
Professional Services and Offices	N	L(15)	L(17)	P
Quick Vehicle Servicing	N	N	N	SUP
Restaurant	N	N	L(11)	P
Retail Sales and Service	N	L(15)	L(17)	P
Sale of Products Grown on Site	N	N	N	N
Self-service Storage	N	N	N	N
Sexually Oriented Business	N	N	N	N
Temporary Uses	L(38)	L(38)	L(38)	L(38)
Vehicle Repair	N	N	N	SUP
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8				

<i>Industrial Land Use Categories</i>	<i>DR-1</i>	<i>DR-2</i>	<i>DC-N</i>	<i>DC-G</i>
Bakeries	N	N	L(21)	P
Compressor Stations	N	N	N	N
Construction Materials Sales	N	N	N	N
Craft Alcohol Production	N	N	SUP	L(12)
Distribution Center/Warehouse, General	N	N	N	N
Feed Lots	N	N	N	N
Food Processing	N	N	N	N
Gas Wells	L(27)	L(27)	L(27)	L(27)
Heavy Manufacturing	N	N	N	N
Junk Yards and Auto Wrecking	N	N	N	N
Kennels	N	N	N	N
Light Manufacturing	N	N	N	N
Manufacture of Non-odoriferous Foods	N	N	N	N
Printing/Publishing	N	N	N	P
Sanitary Landfills, Commercial Incinerators, Transfer Stations	N	N	N	N
Veterinary Clinics	N	SUP	L(26)	P
Warehouse, Retail	N	N	N	N
Wholesale Nurseries	N	N	N	SUP/ L(36)
Wholesale Sales	N	N	N	SUP/ L(36)
Wrecker Services and Impound Lots	N	N	N	N
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8				

<i>Institutional Land Use Categories</i>	<i>DR-1</i>	<i>DR-2</i>	<i>DC-N</i>	<i>DC-G</i>
Adult or Child Day Care	P	P	P	P

Basic Utilities	SUP	SUP	SUP	SUP
Business/Trade School	N	N	L(26)	P
Cemeteries	N	N	N	N
Churches	P	P	P	P
Colleges	N	N	SUP	P
Community Service	N	N	P	P
Conference/Convention Centers	N	N	SUP	P
Elderly Housing	N	N	L(13)	P
Electric Substations and Switch Stations	L(43)	L(43)	L(43)	L(43)
High School	N	N	N	N
Hospital	N	N	P	P
Kindergarten, Elementary School	P	P	P	N
Medical Centers	N	SUP	P	P
Middle School	N	P	P	N
Mortuaries	N	N	P	P
Parks and Open Space	P	P	P	P
Semi-public, Halls, Clubs, and Lodges	P	P	P	P
WECS (Building-mounted)	SUP	SUP	SUP	SUP
WECS (Free-standing Monopole Support Structure)	SUP	SUP	SUP	SUP
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8				

35.5.3.3. General Regulations.

General regulations of the Downtown University Core District are as follows:

<i>General Regulations</i>	<i>DR-1</i>	<i>DR-2</i>	<i>DC-N</i>	<i>DC-G</i>
Minimum lot area (square feet)	4,000	4,000	2,500	None
Minimum lot width	50 feet	40 feet	20 feet	None

Minimum lot depth	80 feet	80 feet	50 feet	None
Minimum front yard setback	10 feet	10 feet	None	None
Minimum side yard	6 feet	6 feet	None	None
Minimum side yard adjacent to a street	10 feet	10 feet	None	None
Minimum rear yard	10 feet	10 feet	None	None
Minimum yard abutting a single-family use or district	10 feet plus 1 foot for each foot of building height over 30 feet	10 feet plus 1 foot for each foot of building height over 30 feet	15 feet plus 1 foot for each foot of building height over 30 feet	20 feet plus 1 foot for each foot of building height over 30 feet
Minimum residential unit size	700 SF	500 SF	500 SF	500 SF
Maximum FAR	0.50	0.75	1.5	3.0
Maximum density, dwelling units per acre	8	30	72	150
Maximum lot coverage	60%	75%	80%	85%
Minimum landscaped area	40%	25%	20%	15%
Maximum building height	40 feet	45 feet	100 feet/L(33)	100 feet/L(33)
Maximum WECS height	55 feet	55 feet	110 feet/L(33)	110 feet/L(33)

35.5.4. Community Mixed Use Centers.

35.5.4.1. Purpose.

The purpose of the Community Mixed Use Centers is to provide the necessary shopping, services, recreation, employment and institutional facilities that are required and supported by the surrounding community. Land Use categories within the Community Mixed Use Centers include:

CM-G	Community Mixed Use General
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CM-E

Community Mixed Use Employment

35.5.4.2. Permitted Uses.

The following uses are permitted within Community Mixed Use Centers:

<i>Residential Land Use Categories</i>	<i>CM-G</i>	<i>CM-E</i>
Accessory Dwelling Units	N	N
Agriculture	P	P
Attached Single-family Dwellings	N	N
Community Homes For the Disabled	P	P
Dormitory	N	N
Duplexes	N	N
Dwellings Above Businesses	P	N
Fraternity or Sorority House	N	N
Group Homes	N	N
Livestock	L(7)	L(7)
Live/Work Units	P	N
Manufactured Housing Developments	N	N
Multi-Family Dwellings	L(6) & L(4)	L(6) & L(4)
Single-family Dwellings	N	N
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8		

<i>Commercial Land Use Categories</i>	<i>CM-G</i>	<i>CM-E</i>
Administrative or Research Facilities	P	P
Auto and RV Sales	P	P
Bar	P	L(14)
Bed and Breakfast	P	N
Broadcasting of Production Studio	P	P

Commercial Parking Lots	P	P
Drive-through Facility	P	P
Equestrian Facilities	N	N
Home Occupation	N	N
Hotels	P	P
Indoor Recreation	P	P
Laundry Facilities	P	P
Major Event Entertainment	SUP	N
Motels	P	P
Movie Theaters	SUP	N
Outdoor Recreation	P	N
Private Club	P	L(14)
Professional Services and Offices	P	P
Quick Vehicle Servicing	P	P
Restaurant	P	L(14)
Retail Sales and Service	P	L(14)
Sale of Products Grown on Site	N	N
Self-service Storage	SUP L(35)	N
Sexually Oriented Business	N	N
Temporary Uses	L(38)	L(38)
Vehicle Repair	P	P
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8		

<i>Industrial Land Use Categories</i>	<i>CM-G</i>	<i>CM-E</i>
Bakeries	P	L(25)
Compressor Stations	N	N
Construction Materials Sales	N	N
Craft Alcohol Production	L(12)	L(12)

Distribution Center/Warehouse, General	N	N
Feed Lots	N	N
Food Processing	N	N
Gas Wells	L(27)	L(27)
Heavy Manufacturing	N	N
Junk Yards and Auto Wrecking	N	N
Kennels	N	N
Light Manufacturing	N	N
Manufacture of Non-odoriferous Foods	N	L(25)
Printing/Publishing	P	L(25)
Sanitary Landfills, Commercial Incinerators, Transfer Stations	N	N
Veterinary Clinics	P	P
Wholesale Nurseries	N	N
Warehouse, Retail	N	N
Wholesale Sales	N	N
Wrecker Services and Impound Lots	N	N
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8		

<i>Institutional Land Use Categories</i>	<i>CM-G</i>	<i>CM-E</i>
Adult or Child Day Care	P	N
Basic Utilities	SUP	SUP
Business/Trade School	P	P
Cemeteries	N	N
Churches	P	P
Colleges	P	P
Community Service	P	P
Conference/Convention Centers	P	P

Elderly Housing	N	N
Electric Substations and Switch Stations	L(43)	L(43)
High School	P	P
Hospital	N	N
Kindergarten, Elementary School	P	P
Medical Centers	P	P
Middle School	P	P
Mortuaries	P	P
Parks and Open Space	P	P
Semi-public, Halls, Clubs, and Lodges	P	P
WECS (Building-mounted)	SUP	SUP
WECS (Free-standing Monopole Support Structure)	SUP	SUP
P = Permitted, N = not permitted, SUP = Specific Use Permit Required, L(X) = Limited as defined in Section 35.5.8		

35.5.4.3. General Regulations.

General regulations of the Community Mixed Use Centers are in the table below:

General Regulations	CM-G	CM-E
Minimum lot area (square feet)	2,500	2,500
Minimum lot width	50 feet	50 feet
Minimum lot depth	50 feet	50 feet
Minimum front yard setback	None	10 feet
Minimum side yard	None	None
Minimum side yard adjacent to a street	None	10 feet
Minimum yard abutting a residential use or district	20 feet	20 feet, plus 1 foot for each foot of building height above 30 feet
Maximum FAR	1.5	0.75
Minimum residential unit size	500 SF	None

Maximum lot coverage	80%	85%
Minimum landscaped area	20%	15%
Maximum building height	65 feet	65 feet
Maximum WECS height	75 feet	75 feet

35.5.5. Regional Mixed Use Centers.

35.5.5.1. Purpose.

The purpose of Regional Mixed Use Centers is to create centers of activity including shopping, services, recreation, employment and institutional facilities supported by and serving an entire region. Land Use categories within Regional Mixed Use Centers include:

RCR-1	Regional Center Residential 1
RCR-2	Regional Center Residential 2
RCC-N	Regional Center Commercial Neighborhood
RCC-D	Regional Center Commercial Downtown

35.5.5.2. Permitted Uses.

The following uses are permitted within Regional Mixed Use Centers:

<i>Residential Land Use Categories</i>	<i>RCR-1</i>	<i>RCR-2</i>	<i>RCC-N</i>	<i>RCC-D</i>
Accessory Dwelling Units	N	N	N	N
Agriculture	P	P	P	P
Attached Single-family Dwellings	P	P	P	P
Community Homes For the Disabled	P	P	P	P
Dormitory	N	N	N	N
Duplexes	N	N	N	N
Dwellings Above Businesses	P	P	P	P
Fraternity or Sorority House	N	N	N	N
Group Homes	SUP	SUP	SUP	SUP
Livestock	L(7)	L(7)	L(7)	L(7)

Live/Work Units	P	P	P	P
Manufactured Housing Developments	N	N	N	N
Multi-Family Dwellings	L(4)	L(4)	L(6) & L(4)	L(6) & L(4)
Single-family Dwellings	N	N	N	N

P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8

<i>Commercial Land Use Categories</i>	<i>RCR-1</i>	<i>RCR-2</i>	<i>RCC-N</i>	<i>RCC-D</i>
Administrative or Research Facilities	SUP	SUP	L(14)	P
Auto and RV Sales	N	N	N	P
Bar	L(11)	L(11)	P	P
Bed and Breakfast	L(8)	L(9)	L(9)	P
Broadcasting of Production Studio	SUP	SUP	P	P
Commercial Parking Lots	N	N	P	P
Drive-through Facility	N	N	P	P
Equestrian Facilities	N	N	N	N
Hotels	N	N	P	P
Home Occupation	P	P	P	P
Indoor Recreation	N	N	P	P
Laundry Facilities	P	P	P	P
Major Event Entertainment	N	N	SUP	SUP
Motels	N	N	P	N
Movie Theaters	SUP	SUP	P	P
Outdoor Recreation	SUP	SUP	N	N
Private Club	L(11)	L(11)	P	P
Professional Services and Offices	L(15)	L(14)	P	P
Quick Vehicle Servicing	N	N	P	P
Restaurant	L(11)	L(11)	P	P
Retail Sales and Service	L(17)	L(17)	L(13)	P

Sale of Products Grown on Site	N	N	N	N
Self-service Storage	N	N	N	N
Sexually Oriented Business	N	N	N	N
Temporary Uses	L(38)	L(38)	L(38)	L(38)
Vehicle Repair	N	N	N	P
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8				

<i>Industrial Land Use Categories</i>	<i>RCR-1</i>	<i>RCR-2</i>	<i>RCC-N</i>	<i>RCC-D</i>
Bakeries	N	N	L(21)	P
Compressor Stations	N	N	N	N
Construction Materials Sales	N	N	N	N
Craft Alcohol Production	N	N	SUP	L(12)
Distribution Center/Warehouse, General	N	N	N	N
Feed Lots	N	N	N	N
Food Processing	N	N	N	N
Gas Wells	L(27)	L(27)	L(27)	L(27)
Heavy Manufacturing	N	N	N	N
Junk Yards and Auto Wrecking	N	N	N	N
Kennels	N	N	N	N
Light Manufacturing	N	N	N	L(23)
Manufacture of Non-odoriferous Foods	N	N	N	N
Printing/Publishing	N	N	N	N
Sanitary Landfills, Commercial Incinerators, Transfer Stations	N	N	N	N
Veterinary Clinics	SUP	SUP	L(14)	P
Warehouse, Retail	N	N	L(13)	L(13)
Wholesale Nurseries	N	N	N	N
Wholesale Sales	N	N	N	N

Wrecker Services and Impound Lots	N	N	N	N
P= Permitted, N=Not permitted, SUP= Specific Use Permit Required, L(X) = Limited as defined in Section 35.5.8				

<i>Institutional Land Use Categories</i>	<i>RCR-1</i>	<i>RCR-2</i>	<i>RCC-N</i>	<i>RCC-D</i>
Adult or Child Day Care	P	P	P	P
Basic Utilities	SUP	SUP	SUP	SUP
Business/Trade School	N	N	L(14)	P
Cemeteries	N	N	N	N
Churches	P	P	P	P
Colleges	N	N	P	P
Community Service	P	P	P	P
Conference/Convention Centers	N	N	P	P
Elderly Housing	P	P	P	P
Electric Substations and Switch Stations	L(43)	L(43)	L(43)	L(43)
High School	SUP	SUP	P	P
Hospital	N	N	P	P
Kindergarten, Elementary School	P	P	P	N
Medical Centers	SUP	SUP	P	P
Middle School	P	P	P	P
Mortuaries	N	N	P	P
Parks and Open Space	P	P	P	P
Semi-public, Halls, Clubs, and Lodges	P	P	P	P
WECS (Building-mounted)	SUP	SUP	SUP	SUP
WECS (Free-standing Monopole Support Structure)	SUP	SUP	SUP	SUP
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8				

35.5.5.3. General Regulations.

General regulations of the Regional Mixed Use Centers are contained in the table below:

<i>General Regulations</i>	<i>RCR-1</i>	<i>RCR-2</i>	<i>RCC-N</i>	<i>RCC-D</i>
Minimum lot area (square feet)	None	None	None	None
Minimum lot width	50 feet	20 feet	20 feet	None
Minimum lot depth	80 feet	60 feet	50 feet	None
Minimum front yard setback	10 feet	10 feet	10 feet	None
Minimum side yard	6 feet	6 feet	6 feet	None
Minimum side yard adjacent to a street	10 feet	10 feet	6 feet	None
Minimum rear yard	10 feet plus 1 foot for each foot of building height above 30 feet	10 feet plus 1 foot for each foot of building height above 30 feet	None	None
Minimum yard abutting a single-family use or district	30 feet plus 1 foot for each foot of building height above 30 feet	30 feet plus 1 foot for each foot of building height above 30 feet	30 feet plus 1 foot for each foot of building height above 30 feet	30 feet plus 1 foot for each foot of building height above 30 feet
Minimum residential unit size	600 SF	500 SF	500 SF	500 SF
Maximum FAR	0.50	0.75	1.5	3.0
Maximum Density, dwelling units per acre	30	40	80	100
Maximum Lot Coverage	55%	75%	85%	90%
Minimum Landscaped Area	45%	25%	15%	10%
Maximum building height	40 feet	50 feet	65 feet	100 feet

Maximum WECS height	55 feet	60 feet	75 feet	110 feet
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35.5.6. Employment Centers.

35.5.6.1. Purpose.

The purpose of the Employment Centers is to provide locations for a variety of workplaces and complimentary uses. Land Use categories within Employment Centers include:

EC-C	Employment Center Commercial
EC-I	Employment Center Industrial

35.5.6.2. Permitted Uses.

The following uses and their accessory uses are permitted within the Employment Centers:

<i>Residential Land Use Categories</i>	<i>EC-C</i>	<i>EC-I</i>
Accessory Dwelling Units	N	N
Agriculture	P	P
Attached Single-family Dwellings	N	N
Community Homes For the Disabled	N	N
Dormitory	N	N
Duplexes	N	N
Dwellings Above Businesses	N	N
Fraternity or Sorority House	N	N
Group Homes	N	N
Livestock	L(7)	L(7)
Live/Work Units	N	N
Manufactured Housing Developments	N	N
Multi-Family Dwellings	N	N
Single-family Dwellings	N	N

P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8

<i>Commercial Land Use Categories</i>	<i>EC-C</i>	<i>EC-I</i>
Administrative or Research Facilities	P	P
Auto and RV Sales	P	P
Bar	P	P
Bed and Breakfast	N	N
Broadcasting of Production Studio	P	P
Commercial Parking Lots	P	P
Drive-through Facility	P	P
Equestrian Facilities	N	N
Home Occupation	N	N
Hotels	P	P
Indoor Recreation	P	P
Laundry Facilities	P	P
Major Event Entertainment	P	P
Motels	P	N
Movie Theaters	N	N
Outdoor Recreation	P	N
Private Club	P	P
Professional Services and Offices	P	P
Quick Vehicle Servicing	P	P
Restaurant	P	P
Retail Sales and Service	P	L(18)
Sale of Products Grown on Site	N	N
Self-service Storage	SUP L(35)	SUP L(35)
Sexually Oriented Business	N	N
Temporary Uses	L(38)	L(38)

Vehicle Repair	P	P
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8		

<i>Industrial Land Use Categories</i>	<i>EC-C</i>	<i>EC-I</i>
Bakeries	P	P
Compressor Stations	N	N
Construction Materials Sales	N	P
Craft Alcohol Production	P	P
Distribution Center/Warehouse, General	N	L(34)
Feed Lots	N	N
Food Processing	N	N
Gas Wells	L(27)	L(27)
Heavy Manufacturing	N	N
Junk Yards and Auto Wrecking	N	N
Kennels	P	P
Light Manufacturing	P	P
Manufacture of Non-odoriferous Foods	P	P
Printing/Publishing	P	P
Sanitary Landfills, Commercial Incinerators, Transfer Stations	N	N
Veterinary Clinics	P	P
Warehouse, Retail	L(34)	L(34)
Wholesale Nurseries	N	L(32)
Wholesale Sales	P	P
Wrecker Services and Impound Lots	SUP L(29)	SUP L(29)

P=Permitted, N=Not permitted, SUP= Specific Use Permit Required, L(X) = Limited as defined in Section 35.5.8

<i>Institutional Land Use Categories</i>	<i>EC-C</i>	<i>EC-I</i>
Adult or Child Day Care	P	P
Basic Utilities	P	P
Business/Trade School	P	P
Cemeteries	N	N
Churches	P	P
Colleges	P	P
Community Service	P	P
Conference/Convention Centers	P	SUP
Elderly Housing	P	N
Electric Substations and Switch Stations	P	P
High School	N	N
Hospital	P	N
Kindergarten, Elementary School	N	N
Medical Centers	P	N
Middle School	N	N
Mortuaries	P	P
Parks and Open Space	P	P
Semi-public, Halls, Clubs, and Lodges	P	P
WECS (Building-mounted)	SUP	SUP
WECS (Free-standing Monopole Support Structure)	SUP	SUP
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8		

35.5.6.3. General Regulations.

General regulations of the Employment Center are as follows:

<i>General Regulations</i>	<i>EC-C</i>	<i>EC-I</i>
Minimum lot area (square feet)	2,900	2,500

Minimum lot width	20 feet	50 feet
Minimum lot depth	50 feet	50 feet
Minimum front yard setback	None	10 feet
Minimum side yard	None	None
Minimum side yard adjacent to a street	None	10 feet
Minimum yard abutting a single-family use or district	30 feet, plus 1 foot for each foot of building height above 30 feet	30 feet, plus 1 foot for each foot of building height above 30 feet
Maximum FAR	1.50	0.75
Maximum lot coverage	80%	85%
Minimum landscaped area	20%	15%
Maximum building height	100 feet	65 feet
Maximum WECS height	110 feet	75 feet

35.5.7. Industrial Centers.

35.5.7.1. Purpose.

The purpose of Industrial Centers is to provide locations for a variety of work processes and employment such as manufacturing, warehousing and distributing, indoor and outdoor storage, and a wide range of commercial and industrial operations. Land Use categories within Industrial Centers include:

IC-E	Industrial Center Employment
IC-G	Industrial Center General

35.5.7.2. Permitted Uses.

The following uses are permitted within Industrial Centers:

<i>Residential Land Use Categories</i>	<i>IC-E</i>	<i>IC-G</i>
Accessory Dwelling Units	N	N
Agriculture	P	P
Attached Single-family Dwellings	N	N

Community Homes For the Disabled	N	N
Dormitory	N	N
Duplexes	N	N
Dwellings Above Businesses	N	N
Fraternity or Sorority House	N	N
Group Homes	N	N
Livestock	L(7)	L(7)
Live/Work Units	N	N
Manufactured Housing Developments	N	N
Multi-Family Dwellings	N	N
Single-family Dwellings	N	N
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8		

<i>Commercial Land Use Categories</i>	<i>IC-E</i>	<i>IC-G</i>
Administrative or Research Facilities	P	P
Auto and RV Sales	P	P
Bar	L(14)	L(22)
Bed and Breakfast	N	N
Broadcasting of Production Studio	P	P
Commercial Parking Lots	P	P
Drive-through Facility	L(14)	L(14)
Equestrian Facilities	N	N
Home Occupation	N	N
Hotels	P	N
Indoor Recreation	P	N
Laundry Facilities	P	P
Major Event Entertainment	P	N
Motels	P	N

Movie Theaters	N	N
Outdoor Recreation	N	N
Private Club	L(14)	L(22)
Professional Services and Offices	P	P
Quick Vehicle Servicing	P	P
Restaurant	L(14)	L(22)
Retail Sales and Service	L(18)	L(18)
Sale of Products Grown on Site	N	N
Self-service Storage	P	P
Sexually Oriented Business	N	SUP/ L(32)
Temporary Uses	L(38)	L(38)
Vehicle Repair	P	P
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8		

<i>Industrial Land Use Categories</i>	<i>IC-E</i>	<i>IC-G</i>
Bakeries	L(25)	P
Compressor Stations	SUP	SUP
Construction Materials Sales	P	P
Craft Alcohol Production	P	P
Distribution Center/Warehouse, General	P	P
Feed Lots	N	N
Food Processing	N	P
Gas Wells	L(27)	L(27)
Heavy Manufacturing	N	SUP
Junk Yards and Auto Wrecking	N	SUP
Kennels	N	N
Light Manufacturing	P	P
Manufacture of Non-odoriferous Foods	L(25)	P

Printing/Publishing	L(25)	L(25)
Sanitary Landfills, Commercial Incinerators, Transfer Stations	N	SUP
Veterinary Clinics	N	N
Warehouse, Retail	SUP	SUP
Wholesale Nurseries	P	P
Wholesale Sales	P	P
Wrecker Services and Impound Lots	L(29)	L(29)
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8		

<i>Institutional Land Use Categories</i>	<i>IC-E</i>	<i>IC-G</i>
Adult or Child Day Care	L(19)	N
Basic Utilities	P	P
Business/Trade School	P	P
Cemeteries	N	N
Churches	P	P
Colleges	P	N
Community Service	P	P
Conference/Convention Centers	SUP	N
Elderly Housing	N	N
Electric Substations and Switch Stations	P	P
High School	N	N
Hospital	N	N
Kindergarten, Elementary School	N	N
Medical Centers	P	N
Middle School	N	N
Mortuaries	P	N
Parks and Open Space	P	P
Semi-public, Halls, Clubs, and Lodges	P	P

WECS (Building-mounted)	SUP	SUP
WECS (Free-standing Monopole Support Structure)	SUP	SUP
P=Permitted, N=Not permitted, SUP=Specific Use Permit Required, L(X)=Limited as defined in Section 35.5.8		

35.5.7.3. General Regulations.

General regulations of the Industrial Centers are contained in the table below:

<i>General Regulations</i>	<i>IC-E</i>	<i>IC-G</i>
Minimum lot area (square feet)	2,500	5,000
Minimum lot width	50 feet	50 feet
Minimum lot depth	50 feet	50 feet
Minimum front yard setback	10 feet	10 feet
Minimum side yard	6 feet	6 feet
Minimum side yard adjacent to a street	10 feet	10 feet
Minimum yard when abutting a residential use or district	30 feet, plus 1 foot for each foot of building height above 30 feet	30 feet, plus 1 foot for each foot of building height above 30 feet
Maximum FAR	0.75	2.0
Maximum lot coverage	80%	90%
Minimum landscaped area	20%	10%
Maximum building height	100 feet	140 feet
Maximum WECS height	110 feet	150 feet

35.5.8. Limitations.

The following define the limitations to zoning uses when the zoning matrix identifies a use as permitted, but limited:

L(1) = Accessory dwelling units are permitted, subject to the following additional criteria:

1. The proposal must conform with the overall maximum lot coverage and setback requirements of the underlying zone.
2. The maximum number of accessory dwelling units shall not exceed one (1) per lot.

3. The maximum gross habitable floor area (GHFA) of the accessory residential structure shall not exceed fifty (50) percent of the GHFA of the primary residence on the lot, and shall not exceed one thousand (1,000) sq. ft. GHFA unless the lot meets the requirements of L(1).5.
4. One (1) additional parking space shall be provided that conforms to the off-street parking provisions of this Chapter.
5. The maximum gross habitable floor area (GHFA) of the accessory residential structure shall not exceed fifty (50) percent of the GHFA of the primary residence on the lot, where the lot size is equal to or greater than ten (10) acres in size. An SUP is not required for such an accessory residential structure where the lot size is equal to or greater than ten (10) acres.

L(2) = For infill lots, the front setback shall be an average of the adjacent lots.

L(3) = In part of a subdivision of two (2) acres or more, up to two (2) units may be attached by a common wall if the lots which contain the attached structures do not abut the perimeter lot lines of a subdivision, the individual common wall units are on separate lots designed to be sold individually, and they comply with the Subchapter 13. Additionally, units must have the appearance of a single-family residence from the street.

L(4) = Multi-family is permitted only:

1. With a Specific Use Permit; or
2. As part of a Mixed-Use Development; or
3. As part of a Master Plan Development, Existing; or
4. If the development received zoning approval allowing multi-family use within one (1) year prior to the effective date of Ordinance No. 2005-224; or
5. If allowed by a City Council approved neighborhood (small area) plan.

L(5) = Within this district the density of apartments will be calculated as one (1) bedroom equating to one-half (.5) unit.

L(6) = Permitted only on second (2nd) story and above, when an office, retail, or other permitted commercial use is on the ground floor along any avenue, collector, or arterial street, otherwise office or retail uses are not required.

L(7) = Limited to two (2) animals on parcels one (1) to three (3) acres in size. Additional animals may be added at a rate of one (1) per each acre over three (3).

L(8) = Travelers' accommodations, are permitted, provided that:

1. The business-owner or manager shall be required to reside on the property occupied by the accommodation, or adjacent property.
2. That each accommodation unit shall have one (1) off-street parking space, and the owners shall have two (2) parking spaces. All spaces shall be in conformance with the requirements of the Off-Street Parking section of this Chapter.
3. That only one (1) ground or wall sign, constructed of a non-plastic material, non-interior illuminated of four (4) sq. ft. maximum size be allowed. Any exterior illumination of signage shall be installed such that it does not directly illuminate any residential structures adjacent or nearby the travelers' accommodation.
4. That the number of accommodation units allowed shall be proportional to the permitted density of the zone. Each traveler's accommodation unit shall be counted as 0.6 units for the purpose of calculating the permitted number of traveler's accommodations.

5. All traveler's accommodations shall be within two hundred (200) feet of a collector or arterial. Street designations shall be as determined by the City Comprehensive Plan. Distances shall be measured via public street or alley access to the site from the arterial.
6. Excluding the business-owner's unit and the area of the structure it will occupy, there must be at least four hundred (400) sq. ft. of gross interior floor space remaining per unit.
7. Traveler's accommodations are limited to no more than eight (8) guest units.

L(9) = All restrictions of L(8), but limited to no more than fifteen (15) guest units.

L(10) = All restrictions of L(8), but limited to no more than five (5) guest units.

L(11) = Limited to sit down only, and no drive up service permitted. Limited to no more than one hundred (100) seats and no more than four thousand (4,000) square feet of restaurant area.

L(12) = On-premise consumption or retail sales and shall limit the use to no more than ten thousand (10,000) square feet of gross floor area for production, bottling, packaging, storing, and other manufacturing related activities, and additional square footage shall require a Specific Use Permit.

L(13) = Uses are limited to no more than fifty-five thousand (55,000) square feet of gross floor area per lot.

L(14) = Uses are limited to no more than ten thousand (10,000) square feet of gross floor area.

L(15) = Uses are limited to no more than five thousand (5,000) square feet of gross floor area per lot. An SUP is required for additional square footage for Semi-Public Halls, Clubs and Lodges.

L(16) = Uses are limited to no more than one thousand five hundred (1,500) square feet of gross floor area per lot.

L(17) = Uses that exceed twenty-five thousand (25,000) square feet of gross floor area per use require approval of a SUP.

L(18) = Uses are permitted only in association with Gas Stations and are limited to no more than five thousand (5,000) square feet of gross floor area except adjacent to I-35 then uses are limited to ten thousand (10,000) square feet of gross floor area.

L(19) = Allowed as an accessory use to the primary business(es) within the same structure. The accessory use is limited to those employees or owners of the business or businesses within the same structure.

L(20) = Permitted, but outdoor storage of autos prohibited.

L(21) = Bakery and bottling areas not to exceed two thousand five hundred (2,500) square feet. Sales on premises of products produced required in this zone.

L(22) = Uses are permitted only in association with Gas Stations and are limited to no more than twenty-five (25) seats except adjacent to I-35 then the number of seats is limited to fifty (50).

L(23) = Light manufacturing of products sold on site permitted, area of manufacture not to exceed five thousand (5,000) square feet.

L(24) = Light manufacturing of products sold on site permitted, area of manufacture not to exceed one thousand five hundred (1,500) square feet.

L(25) = If proposed use is within two hundred (200) feet of a residential zone, approval is subject to a Specific Use Permit.

L(26) = Uses are limited to no more than two thousand five hundred (2,500) square feet of gross floor area per lot.

L(27) = Must comply with the provisions of Subchapter 89, Gas Well Drilling and Production.

L(28) = Use allowed as part of consolidated parking plan.

L(29) = Wrecker Services and Impound Lots must comply with the following provisions:

1. The subject lot shall comply with the provisions of the Texas Administrative Code, regarding Vehicle Storage Facilities.
2. Lot Screening: All stored vehicles shall be opaquely screened from all rights-of-way and residential uses and zoning districts.
3. Parking and vehicle storage areas associated with wrecker services and impound lots activities are not allowed within undeveloped floodplain, water-related habitat, and riparian buffer environmentally sensitive areas (ESA).
4. Best management practices addressing stormwater quality must be implemented and maintained on site. Management practices must attain the pollutant removal capabilities recommended for parking areas in the Integrated Storm Water Management (ISWM) Manual, as published by the North Central Texas Council of Governments, or similar practices consistent with low impact development (LID) approaches.

L(30) = Permitted as part of a mixed use building and only in conjunction with office, retail, or other permitted commercial, or institutional uses, equal to at least fifteen (15) percent of the floor space of the residential use along any avenue, collector, or arterial street, otherwise these uses are not required.

L(31) = Permitted as part of a mixed use building and only in conjunction with office, retail, or other permitted commercial, or institutional uses, equal to at least twenty-five (25) percent of the floor space of the residential use along any avenue, collector, or arterial street, otherwise these uses are not required.

L(32) = Not allowed to locate adjacent to an arterial and within one thousand (1,000) feet as measured from the nearest property line of a sexually oriented business to the nearest property line of any other sexually oriented business, adult or child daycare, any elderly housing facility, hospital, any residential use, public open space.

L(33) = Additional height may be allowed with an SUP and a viewshed study, which illustrates that any views of the Historic Courthouse are not blocked by the new structure(s) additional height.

L(34) = Permitted with no more than one hundred fifty thousand (150,000) gross square feet and eight (8) truck docks. All docks or loading bays shall be to the rear or side of the structure and not viewable from the street. The buffering standards for outdoor storage shall apply, both to any outdoor storage activity and to the loading docks.

L(35) = Self-Service Storage uses must comply with the following provisions:

1. All sides of a self-service storage facility shall be constructed of 100 percent masonry, stone, architectural concrete block with integrated color (split-face CMU), stucco, concrete tilt-wall (colored or stamped).
2. The limitation on exterior materials is exclusive of fenestrations such as doors, windows, glass and entryway treatments. Glass may not account for more than 70 percent of the exterior wall area.
3. No overhead bay doors and/or storage unit doors may be visible from adjacent property or public right-of-way.
4. No outdoor storage permitted.
5. All proposed fencing materials are limited to masonry and wrought iron and shall be constructed in compliance with Section 35.13.9, as amended.
6. Landscape buffers shall be provided in accordance with Section 35.13.8, as amended.

L(36) = Permitted when combined with retail sales.

L(37) = Five (5)-acre minimum land area required and no more than twenty-five (25) kennels per acre allowed, including indoor and outdoor runs. A natural buffer strip is required adjacent to any residential use.

L(38) = Must meet the requirements of Section 35.12.9.

L(39) =

L(40) = Limited to a maximum twelve (12) units per acre.

L(41) = Lots where the proposed WECS will be located shall have a minimum lot area of two (2) acres. A maximum of one (1) WECS is permitted by right. Multiple WECS are permitted only with approval of a SUP.

L(42) = Building-mounted WECS may not extend higher than ten (10) feet above where the WECS is mounted on the building. The height shall be measured from the base of the WECS where it is mounted on the building to the highest point of the arc of the blades' elevation. If the WECS does not use blades, then height is measured from the base of the WECS where it is mounted on the building to the highest point of the WECS.

L(43) = Electric Substations and Switch Stations are permitted subject to the following criteria:

1. An applicant shall be required to submit an application for a Specific Use Permit pursuant to Subsection 35.6 in accordance with procedures set forth in Subsection 35.3.4 unless it is able to meet the following requirements:
 - A. Use of the property is associated with a City Council approved Capital Improvements Plan (CIP) or other City Council approved Master Plan; and
 - B. A public hearing was held at the City Council for the selection of the site to include:
 - i. Written notice of the public hearing was provided to property owners within two hundred (200) feet and physical addresses within five hundred (500) feet of the subject property at least twelve (12) days prior to public hearing; and
 - ii. A sign advertising the public hearing was posted on or adjacent to the property at least twelve (12) days prior to the public hearing.
 - C. A neighborhood meeting was held at least fifteen (15) days prior to the public hearing at City Council for the acquisition of the site.
2. All Electric Substations or Switch Stations shall comply with the following development requirements:
 1. The proposed electric substation or switch station shall substantially comply with all of the development and regulatory standards established in Subchapter 24; and
 2. A site plan demonstrating substantial conformance with all the applicable design standards identified in Subchapter 24 shall be submitted.

35.5.9. Additional Mixed Use Restrictions.

- A. All multi-family proposed as part of a Mixed Use Development in the NRMU-12, NRMU, CM-G, CM-E, RCR-1, RCR-2, RCC-N and RCC-D zoning districts shall:
 1. Be subject to a development agreement (the "Development Agreement") between the property owner and the City which shall be entered into prior to Final Plat approval for any portion of the development. The Development Agreement shall contain Assurances, other covenants, and a Phasing Plan stipulating that non-residential development will be constructed first and multi-family residential constructed last or only after fifty (50) percent or more of the non-residential component has been developed. The Development Agreement

shall be in recordable form and be recorded in the Real Property Records of Denton County, Texas and shall constitute covenants running with the land and will be binding on all owners and future owners of the property. Phasing Plan is defined as a graphic and narrative document that indicates the sequence and/or timing of construction and shall provide a description of the phasing order (1, 2, 3,) or by time period (2005, 2006, 2007,) and includes infrastructure requirements for each phase.

2. If a phased project proposes all or a majority of the common amenities for future phases, (including, but not limited to, open space, landscaping and/or recreational facilities) then "Assurances" are required. The Assurances will address amenities not constructed in the early phases so that in the event that the future phases are not developed, sufficient common amenities will be provided for the phases actually developed. The Assurances will be a cash amount equal to the estimated cost to develop the amenities as determined by the applicant's professionals and sealed by an architect or engineer. The Assurances will be in the form of a cash deposit with the City or other form of security approved by the City Attorney and the City Manager. The City will use the security to construct the amenities if the developer fails to perform in accordance with the "Assurances."
3. Before Building Permits may be issued for any portion of the project, a Preliminary Site Plan for the entire project must be approved. Diversification of ownership will not be considered a valid basis or justification for a variance or an amendment to a previously approved Site Plan.

B. Exemptions.

Existing Master Planned Developments shall be exempt from the additional mixed-use restrictions.

C. Appeals.

Any applicant may request deviations from the additional mixed-use restrictions and the multi-family residential design standards that are consistent with the spirit and intent of this chapter, by appealing to the Planning and Zoning Commission and City Council through the Alternative Development Plan procedure under Section 35.13.5 of this Code.

35.5.10. Gas Well Development.

35.5.10.1 Purpose, Authority and Applicability.

A. **Purpose.** The drilling and production of gas and the development of gas well facilities within the corporate limits of the City necessitate promulgation of reasonable regulations to prevent devaluation of property; to protect watersheds; to ensure that Gas Well Drilling and Production Activities are compatible with adjacent land uses throughout the duration of such activities; and to assure that such activities conform to The Denton Plan. The regulations contained in Subchapters 5, 16 and 22 are designed to protect the health, safety, and general welfare of the public and to assure that the orderly and practical development of mineral resources is compatible with the quiet enjoyment of affected surface estates. The regulations contained in Subchapters 5, 16 and 22 are designed to implement the purposes set forth in this subsection and are supported by the following findings of fact:

1. Gas Well Drilling and Production Activities create externalities that potentially threaten the health, safety and general welfare of persons residing or working on property in proximity to such operations.
2. Gas Well Drilling and Production Activities, in the absence of local regulatory controls, may emit high noise levels, produce large volumes of dust, congest local streets, present fire hazards and produce other deleterious effects, all of which fall disproportionately on adjacent land uses, and which can result individually or cumulatively in injury to persons,

destabilization of property values, and inhibit the quiet peace and enjoyment of surface uses of real property in the vicinity of such operations.

3. The City of Denton recognizes that the United States and the State of Texas primarily regulate Gas Well Drilling and Production Activities. Moreover, with the enactment of House Bill 40 on May 18, 2015 (Texas Natural Resources Code, Sec. 81.0523), the State of Texas has exclusive jurisdiction over Gas Well Drilling and Production Activities. Municipalities are preempted from regulating said activities except as allowed in Sec. 81.0523(c), which expressly provides that a municipality has authority to regulate certain aspects of aboveground activity related to oil and gas operations. The regulations in this Subchapter are intended to regulate under such authority, in order to implement compatible local objectives that assure the health, safety and general welfare of the City's residents and businesses.
4. The proliferation of gas wells and Drilling and Production Sites within the City of Denton creates conflicts between such developments and other existing and future surface uses of the property. In order to assure the compatibility of residential, commercial and industrial uses with gas well development, it is necessary for the City to separate Gas Well Development from other surface uses within the City.

B. **Authority.** This Subchapter is adopted pursuant to authority vested under the constitution and laws of the United States, the State of Texas and the City of Denton. Each authorization identified in this Subchapter shall be construed as an exercise of the City's zoning powers, pursuant to the Denton City Charter, Texas Local Government Code Chapters 211 and 212 and the provisions of Subchapter 35.5 of the Denton Development Code (DDC), as well as an exercise of its authority granted by Section 81.0523(c) of the Texas Natural Resources Code.

C. **Applicability.** The provisions of Subchapters 5 and 22 apply only within the corporate limits of the City of Denton, except as otherwise expressly stated therein.

D. **Integrated Provisions.** The provisions of Subchapters 5 and 22 relating to gas well development are intended as a set of integrated regulations. Subchapter 5 establishes zoning classifications and permitting requirements and procedures for gas well development. Subchapter 22 contains definitions that apply to all provisions regulating gas well development, and identifies impact mitigation standards and other general standards that apply to gas well development. Each subchapter may incorporate by reference other applicable provisions of this Denton Development Code that pertain to gas well development.

Section 35.5.10.2 Required Authorization for Gas Well Development in City Limits.

A. **Zoning District Classifications for Gas Well Development.**

1. Gas well development is classified as an industrial land use in all zoning districts.
2. Gas well development is permitted as set forth in Sections 35.5.1 through 35.5.7 of the DDC, subject to the Limitations in Section 35.5.8 of the DDC and the standards in this section and in Subchapter 22. Gas well development also is permitted if authorized by a Master Planned Community ("MPC") or Planned Development ("PD") District.
3. In order to foster compatible land use within zoning districts, Gas Well Development within the corporate limits of the City will be subject to reasonable setbacks from Protected Uses and Residential Subdivisions, which vary according to the types of uses authorized in each district. Because many gas wells are already in close proximity to existing Protected Uses or Residential Subdivisions, setback standards within districts will vary according to whether the proposed Gas Well Development takes place on an Existing Site or a new site.
4. A Drilling and Production Site Setback is the distance that the site must be separated by an Operator from an existing Protected Use or Residential Subdivision. A Reverse Setback is the minimum distance that a Protected Use or Residential Subdivision must be separated by a surface owner from an approved Drilling and Production Site. A Minimum Setback is

the minimum distance a Drilling and Production Site must be separated by an Operator from a Protected Use or Residential Subdivision after a waiver or variance is granted to reduce the setback requirement.

B. Setbacks by Zoning District Classification. New Gas Well Drilling and Production Sites. Setbacks from Protected Uses and Residential Subdivisions for new Drilling and Production Sites, Reverse Setbacks and Minimum Setbacks shall be as follows. In order to reduce Drilling and Production Site Setbacks, the procedures outlined in Section 35.5.10.3 must be followed.

1. For new Drilling and Production Sites in Rural Districts established by Section 35.5.1, in Neighborhood/Residential Districts authorized by Section 35.5.2, in Downtown University Core Districts authorized by Section 35.5.3, in Community Mixed Use Center Districts authorized by Section 35.5.4, in Regional Mixed Use Center Districts established by Section 35.5.5 and in Employment Center Districts authorized by Section 35.5.6:
 - a. Drilling and Production Site Setbacks: 1,000 feet.
 - b. Minimum Setbacks: 500 feet.
 - c. Reverse Setbacks: 250 feet.
2. For new Drilling and Production Sites in Industrial Center Districts established by Section 35.5.7:
 - a. Drilling and Production Site Setbacks: 250 feet.
 - b. Minimum Setbacks: 250 feet.
 - c. Reverse Setbacks: 250 feet.

Where a proposed Drilling and Production Site in an Industrial Center District is contiguous to the boundary of a district subject to the setbacks in subsection (1), the Drilling and Production Site Setback shall be five hundred (500) feet from Protected Uses or Residential Subdivisions within the adjacent district and the Reverse and Minimum Setbacks shall be two hundred fifty (250) feet.

3. For new Drilling and Production Sites in PD Districts and MPC Districts, Drilling and Production Site Setbacks and Reverse Setbacks shall be as provided in the PD District or MPC District regulations or as provided in subsequent site-specific applications approved prior to August 4, 2015. The Drilling and Production Site Setbacks and Reverse Setbacks in subsection (1) shall apply to any setback not specified in the MPC or PD District regulations or in subsequent site-specific applications approved prior to August 4, 2015.

C. Setbacks for Existing Gas Well Sites.

1. For Existing Drilling and Production Sites in Industrial Center Districts:
 - a. Drilling and Production Site Setbacks: 250 feet.
 - b. Minimum Setbacks: 250 feet.
 - c. Reverse Setbacks: 250 feet.
2. For Existing Drilling and Production Sites in all other districts, except in MPC or PD Districts:
 - a. Drilling and Production Site Setbacks: 500 feet.
 - b. Minimum Setbacks: 250 feet.
 - c. Reverse Setbacks: 250 feet.
3. For Existing Drilling and Production Sites in MPC or PD Districts, setbacks shall be as provided in the MPC or PD District regulations, or as provided in subsequent site-specific applications approved prior to August 4, 2015. The Drilling and Production Site Setbacks and Reverse Setbacks in subsection (2) shall apply to any setback not specified in the MPC

or PD District regulations, or in subsequent site-specific applications approved prior to August 4, 2015.

In order to reduce Drilling and Production Site Setbacks, the procedures outlined in Section 35.5.10.3 must be followed.

D. Measurement of Setbacks.

1. A Drilling and Production Site Setback shall be measured from the actual or proposed boundaries of the Drilling and Production Site in a straight line, without regard to intervening structures or objects, to the closest exterior point of any structure occupied by a Protected Use or any residential lot boundary line on an approved Residential Subdivision plat when not currently occupied by a Protected Use.
2. The Reverse Setback shall be measured from the closest exterior point of the proposed structure to be occupied by a Protected Use, in a straight line, without regard to intervening structures or objects, to the closest boundary designated for the approved Gas Well Development Site Plan, or, if no Gas Well Development Site Plan has been approved for the site, from the closest boundary of the Existing Drilling and Production Site. For a proposed Residential Subdivision plat, the Reverse Setback shall be measured from any undeveloped residential lot boundary to the closest boundary designated for the approved Gas Well Development Site Plan, or, if no Gas Well Development Site Plan has been approved for the site, from the closest boundary of the Existing Drilling and Production Site.
3. The Reverse Setback for all other proposed Habitable Structures shall be the distance prescribed by the Fire Code. No permanent Habitable Structure, however, shall be located within the boundaries of a Drilling and Production Site.

E. Compliance with Fire Code Setbacks. In the event of any conflict between the setback provisions established by this Subchapter and any setback provisions established by the Fire Code, as now adopted or hereafter amended by the City of Denton, whichever provision provides for the larger setback shall control.

F. After the effective date of this amendatory ordinance, a property owner who constructs a Protected Use must maintain a distance of three hundred (300) feet between the closest exterior point of the proposed structure to be occupied by the Protected Use and any equipment on a Drilling and Production Site that produces or stores flammable or combustible liquid or gas, to assure efficient emergency response operations. After such date, an Operator who locates any equipment that produces or stores flammable or combustible liquid or gas on a Drilling and Production Site must maintain a distance of three hundred (300) feet between such equipment and the closest exterior point of a structure occupied by a Protected Use.

35.5.10.3 General Permit Requirements for New and Existing Gas Well Sites

A. Permit Procedure Tracks.

1. **Gas Well Development Site Plan Required For Authorization of Multiple Wells.**
 - a. Other than for pending permit applications excepted from these regulations under Section 35.10.3.E.2, no Gas Well Permit shall be issued until a Drilling and Production Site has been established through approval of a Gas Well Development Site Plan for the well site. For an Existing Drilling and Production Site for which no Gas Well Development Site Plan has been approved, an Operator must obtain approval for a Gas Well Development Site Plan under these regulations before any additional wells may be permitted on the site, except as provided in Section 35.5.10.4.A.1.b.
 - b. In order to satisfy the setback requirements of Section 35.5.10.2, an Operator must use the procedures for approval of a Gas Well Development Site Plan set forth in subsections A.2, A.3 or A.4 of this Section.

- c. Once a Gas Well Development Site Plan has been approved, Drilling and Production Site Setback requirements will not apply to individual Gas Well Permit applications authorized by the approved Gas Well Development Site Plan. No variance or waiver from the setback for the Drilling and Production Site shall be required for subsequent wells.
- d. A new Gas Well Permit must be obtained for each well authorized by an approved Gas Well Development Site Plan.
- e. Once a Gas Well Development Site Plan has been approved for an Existing Drilling and Production Site shown on a gas well development plat, such plat shall have no further force and effect with respect to that Drilling and Production Site.

2. **Procedures for Drilling and Production Sites that Meet Setback Requirements.** For a New or Existing Drilling and Production Site that meets the setback requirements in Section 35.5.10.2, an Operator may apply for a Gas Well Development Site Plan pursuant to Section 35.5.10.4.

3. **Procedures for Drilling and Production Sites That Do Not Meet Setback Requirements.** For a New or Existing Drilling and Production Site that does not meet the setback requirements in Section 35.5.10.2, the Operator may seek a waiver from one hundred (100) percent of the owners of Protected Uses and the owners of lots in Residential Subdivisions within the Drilling and Production Site Setback pursuant to Section 35.5.10.6.A. In the alternative, the Operator may apply for a variance from the setback requirement from the Board of Adjustment pursuant to Section 35.5.10.6.B. In the alternative, for qualified Drilling and Production Sites, the Operator may obtain a reduction in the site setback using incentive procedures in Section 35.5.10.6.C. The Minimum Setback requirements under Section 35.5.10.2 shall apply. The notice provisions of Section 35.22.7.B apply to proceedings under this subsection. Once a setback has been reduced through waivers or variance procedures, the Operator may apply for a Gas Well Development Site Plan pursuant to Section 35.5.10.4.

4. **Special Procedures for Setbacks in PD and MPC Districts.**

- a. The Operator and the surface owner of land in a PD or MPC District may present a unified plan that assures the compatibility of surface development and Gas Well Development of the property, taking into consideration setbacks from Protected Uses and Residential Subdivisions, traffic circulation and access, fire safety and emergency response, noise and light mitigation and other factors necessary to achieve compatibility of land uses. The plan may establish different Drilling and Production Site and Reverse Setbacks that vary from those prescribed in section 35.5.10.2. The plan if approved by the City Council shall be incorporated into the zoning district regulations.
- b. Where the Drilling and Production Site and Reverse Setbacks for Existing Sites within a PD or MPC district are less than the minimums set forth in Section 35.5.10.2, no amendments to the zoning district regulations for surface development or gas well development shall be approved by the City Council unless the setbacks are conformed to the requirements of this Section or a compatibility plan is presented and approved pursuant to subsection 4.a.

B. **Sequence of Gas Well Permits.** The Operator must comply with all rules and regulations of the Fire Code and all other law, rules and regulations applicable to gas well operations, including, but not limited to, the following provisions. No Drilling or Production Activities may commence within the City limits until the following authorizations have been obtained, in the following sequence:

1. Approval of a Gas Well Development Site Plan pursuant to Section 35.5.10.4, for new sites. Upon approval of a Gas Well Development Site Plan, the Operator may commence construction of a Drilling and Production Site. No disturbance of the land is allowed until a Gas Well Development Site Plan is obtained.

2. The Operator shall obtain a Gas Well Permit for each new gas well on such site pursuant to the application requirements and standards of Section 35.5.10.5.
3. Approval of a Temporary Above-Ground Storage Tank Permit from the Denton Fire Department.
4. Approval of Gas Well Operational Permit from the Denton Fire Department.
5. When all approvals contained in subsections 1—4 above have been obtained, applicant may commence Initial Drilling Activities.
6. Approval of a Flammable and Combustible Liquids Construction Permit from the Denton Fire Department.
7. Approval of a Flammable and Combustible Liquids Operational Permit from the Denton Fire Department.
8. When all approvals contained in subsections 1—7 above have been obtained, applicant may commence Completion Operations and Production Activities.
9. Approval of an Open Flame Operational Permit from the Denton Fire Department for flaring activities during any stage of operation.
10. New Drilling or Production Activities on an existing Drilling and Production Site that is subject to an approved Watershed Permit, or on sites which required a Watershed Permit under prior regulations, but for which site no Watershed Permit was issued, are subject to the requirements of Section 35.22.9.D.
11. The applications for any authorization for gas well drilling and production listed in this Subsection B must be submitted and approved in the numerical order listed. No subsequent application shall be determined to be complete and hereby is deemed to be incomplete until all required prior applications have been approved, and no completeness determination shall be made until such prior applications have been approved.

C. Applications for gas well drilling and production shall expire under the following circumstances:

1. A Specific Use Permit which was approved under prior gas well regulations expires according to its terms, or pursuant to DDC, Section 35.6.6.
2. A Watershed Protection Permit, if applicable, expires with the expiration of a Gas Well Development Site Plan.
3. A Gas Well Development Site Plan for a new Drilling and Production Site expires unless a complete application for a Gas Well Permit has been filed within one (1) year of the date of approval of the Site Plan, or no drilling and production activities have occurred on the Drilling and Production Site for a period of three (3) years. A Gas Well Development Site Plan for an Existing Site does not expire, unless no drilling and production activities have occurred on the site for a period of two (2) years after all wells on the site have been plugged and abandoned.
4. A Gas Well Permit expires if Initial Drilling Activities have not commenced within one (1) year of the date of approval of the Gas Well Permit.
5. Following expiration of an approved application for gas well drilling and production, a new application must be submitted.

D. The authorizations required by this Subchapter are in addition to, and not in lieu of, any permits that may be required by any other provision of the Denton City Code, DDC or any other government agency.

E. **Legal Non-Conformity; Exceptions.**

1. Non-conformities. The provisions of Subchapter 11 ("Nonconforming Uses") are applicable to gas well drilling and production activities, except as provided hereinafter.

- a. For purposes of Subchapter 11, the drilling of a new gas well and associated Production Activities do not constitute an existing lawful use.
- b. The amendment of the permitted use tables and limitations in Section 35.5 to provide for gas well Drilling and Production Activities shall not render non-conforming any Workover Operations, Drilling Activities or Production Activities for an existing well conducted on an Existing Drilling and Production Site, if such activities were authorized under a gas well permit that was approved by the Gas Well Administrator pursuant to gas well regulations in effect prior to the effective date of this amendatory ordinance.
- c. The adoption of this amendatory ordinance or the application of such regulations to an Existing Drilling and Production Site shall not render non-conforming any Workover Operations, Drilling Activities or Production Activities for an existing well on such site, if such activities were authorized under a gas well permit that was approved by the Gas Well Administrator prior to the effective date of this amendatory ordinance.

2. General exceptions. The standards or procedures implemented by this amendatory ordinance shall not affect the processing and approval or disapproval of an application for a gas well permit that was pending for decision on the effective date of this amendatory ordinance, or any subsequent permit applications for the same gas well, or for a gas well for which a gas well permit was approved prior to the effective date of this amendatory ordinance, except to the extent necessary to give effect to this subsection E. For purposes of this subsection E.2, an amended Gas Well Development Site Plan application is not a subsequent permit application.

3. Authorizations or applications excepted under subsection E.2. are subject to all gas well drilling and production standards in effect immediately prior to the effective date of this amendatory ordinance.

4. To the extent that any exception provided under subsection E.2 is dependent on an application pending on the effective date of an amendatory ordinance, such application must have been approved subsequently in order for the exception to apply.

5. City shall, prior to annexation, provide notice of the City's intent to annex to each Operator affected by the annexation. Every Operator of a Drilling and Production Site that has been annexed into the City shall register the Drilling and Production Site not later than three (3) days after the effective date of the annexation by contacting the Gas Well Administrator to ensure that gas well development plats and gas well locations are on file with the City. If they are not, the Operator shall provide the City with a copy of a gas well development plat and gas well location information.

F. **General Application Standard.** In addition to any other remedies available at law or in equity, the City may initiate proceedings to revoke any site plan, permit, variance or special exception approved pursuant to this Section 35.5.10 upon discovery that the applicant supplied false, fraudulent or misleading information that was material to approval of the application under the standards applicable to the permit, variance or special exception. All site plan or permit applications or requests for relief to the Board of Adjustment or requests for waivers shall be verified.

35.5.10.4. Gas Well Development Site Plans.

A. **Gas Well Development Site Plan.**

1. **Applicability.**

- a. A Gas Well Development Site Plan approved under this amendatory ordinance is required to authorize multiple gas wells on a Drilling and Production Site and must be approved prior to issuance of any Gas Well Permit for any new well on the site.
- b. Notwithstanding subsection A, new wells identified on an approved Existing Gas Well Development Site Plan may be permitted in accordance with the gas well ordinance

regulations in effect immediately prior to the effective date of this amendatory ordinance.

- c. A gas well development plat is not an Existing Gas Well Development Site Plan.
- d. A Gas Well Development Site Plan is not required to authorize Workover Operations, Drilling Activities or Production Activities for an existing gas well for which a gas well permit was issued prior to the effective date of this amendatory ordinance.

2. **Application Requirements.**

- a. A cover page that includes a vicinity map of the Drilling and Production Site; a Sheet Index that identifies the number of Exhibits with titles for each (exhibit titles shall begin with the word 'Exhibit' and include the respective letter); the Project Title; the date of preparation; the preparer, Operator, and property owner's names; space for the City project number; and a signature block for both the Gas Well Administrator and the City Secretary.
- b. A mapping exhibit with an accurate legal description of the Drilling and Production Site that was prepared and certified by a Registered Professional Land Surveyor of the State of Texas. Provide closure sheet of bearings and distances used in legal description. The exhibit shall include exact location, dimension, and description of all existing public, proposed, or private easements, and public rights-of-way within the lease area, intersecting or contiguous with its boundary, or forming such boundary. Describe and locate all permanent survey monuments, pins, and control points and tie and reference the survey corners to the Texas State Plane Coordinate System North Central Zone 1983-1999 datum. Provide proposed pipeline route—note that a separate application may be necessary if the proposed route encroaches onto any public easement, right-of-way or land owned by the City of Denton.
- c. The maximum size of a proposed Drilling and Production Site shall be three (3) acres, unless the Operator can demonstrate to the City at the time of filing of a Gas Well Development Site Plan application that (i) the surface owner(s) has agreed to a larger site via a written agreement that will be recorded by the Operator in the Denton County records, (ii) the surface owner is subject to a covenant in a written instrument, or memorandum thereof, recorded prior to August 4, 2015, that authorizes a larger site, or (iii) the Operator can demonstrate that a larger site is needed to accommodate the planned gas well operations based upon the acreage that the Operator presently has under the mineral lease; provided that no new Drilling and Production Site authorized under (i), (ii) or (iii) may exceed seven (7) acres, unless authorized by the Board of Adjustment. For a Gas Well existing on the effective date of this amendatory ordinance, evidence that the current Drilling and Production Site is greater than the maximum size shall be sufficient proof to demonstrate that a larger site is needed to accommodate the planned gas well operations proposed by the Gas Well Development Site Plan. A gas well development plat is neither a written agreement nor a written instrument or memorandum within the meaning of this subsection.
- d. A map showing the distance from the boundaries of the Drilling and Production Site from all Protected Uses and Residential Subdivisions. If the separation distance(s) from Protected Uses and Residential Subdivisions do not meet the setback requirements of Section 35.5.10.2, the application also must include a copy of the waivers approved pursuant to Section 35.5.10.6.A, or the approval of a setback variance approved by the Board of Adjustment pursuant to Section 35.5.10.6.B. If the Operator seeks to qualify the proposed Drilling and Production Site for an administrative waiver pursuant to Section 35.5.10.6.C, the information therein required shall be submitted with the application for site plan approval.
- e. A site plan of the Drilling and Production Site, capable of being recorded, showing clear site boundary lines and the location of all on-site improvements and equipment,

including: tanks, pipelines, compressors, separators, and other appurtenances in relation to the boundaries of the site.

- f. A legal description of the proposed Drilling and Production Site.
- g. An Erosion and Sediment Control Plan. Such exhibit must include contact information, a physical site description including: land uses; general vegetation and surface water in near proximity; topography/contour lines both pre- and post-construction; hydrologic analysis including: stormwater directional flow, outfalls, water well related structures and water sources; receiving waters; soils; project narrative with general timeline; well pad site plan including: fueling areas, waste disposal containers, hazardous materials storage, and product and condensate storage tanks, soil stabilization and erosion control measures including: list of selected stormwater measures, site map of selected stormwater measures, locations and final stabilization plans; solid waste management plan, septic/portolet location; and maintenance plan for stormwater controls including schedule and transfer of ownership provision. See Gas Well Erosion and Sediment Control Plan Guidance Document for details.
- h. An Access and Transportation Plan identifying the points of access and routes to be followed on the road network supporting gas well development on the Drilling and Production Site over time, and the internal circulation plan for the property containing the proposed site, including provisions to protect vehicle access to Neighborhood Streets. The Plan shall contain specifications for construction of the access road(s) and on-site fire lanes that meet the standards for emergency access set forth in Section 35.22.2.E. A map showing transportation route and road for equipment, supplies, chemicals, or waste products used or produced by the gas well operation shall be included. The map shall illustrate the length of all public roads that will be used for site ingress and egress. The water source proposed for both the drilling and fracturing stages shall be identified in the Plan, together with a designation whether the water is to be hauled or piped to the site.
- i. A Landscape Plan. The project review planner will determine if a buffer is required based on the adjacent land use(s). If the planner determines a buffer is required, then a landscape plan must be submitted in accordance with the City of Denton's Landscape Plan Checklist. Not every Drilling and Production Site requires a landscape plan.
- j. A Tree Inventory and Preservation and Mitigation Plan. For sites with trees, a Tree Inventory and a Preservation Plan and Mitigation Plan pursuant to DDC, Section 35.13.7 will be submitted.
- k. A copy of any prior approvals required, including conditions imposed, such as a Special Use Permit (SUP) or Watershed Protection Permit;
- l. A Noise Management Plan, prepared in accordance with Section 35.22.2.F.2; and
- m. Proof of issuance of Notice of Activities pursuant to Section 35.22.7.a.1.

3. **Procedures and Criteria.**

- a. **Processing of application.** An application for a Gas Well Development Site Plan shall be processed in accordance with the requirements of Section 35.16.19 of the DDC, and shall be decided by the Gas Well Administrator.
- b. **Criteria.** The Gas Well Administrator shall approve the application if it meets the following standards:
 - i. The site meets the setback requirements of Section 35.5.10.2, a waiver has been granted or a variance from such standards has been approved by the Board of Adjustment or the Gas Well Administrator.

- ii. The application is consistent with any applicable SUP, MPC or PD site specific authorization, or Watershed Protection Permit and any conditions incorporated therein.
- iii. The application meets applicable requirements of section 35.22.2.
- iv. The size of the Drilling and Production Site can accommodate the number of wells proposed.
- v. The site is adequately served by a road network, does not take access from any Neighborhood Street, and road remediation fees have been paid.
- vi. Notice of the application has been posted pursuant to Section 35.22.7.

c. **Conditions.** The Gas Well Administrator may impose conditions that assure compliance with the terms of the prior approvals or standards of this Subchapter.

4. **Effect.** The approval of a Gas Well Development Site Plan authorizes the Operator to apply for a Gas Well Permit for each well authorized by the Site Plan and other permits required before commencement of Drilling Activities on the Drilling and Production Site.

5. **Recordation.** An approved Gas Well Development Site Plan must be recorded by the Operator in the Denton County Records prior to the issuance of a Gas Well Permit.

B. Amended Gas Well Site Plan.

- 1. If the Operator proposes to do any of the following, an Amended Gas Well Development Site Plan shall be required. The applications shall be reviewed and decided in the same manner as the original application.
 - a. Relocate the boundaries of the Drilling and Production Site.
 - b. Expand the boundaries of the Drilling and Production Site.
 - c. Change the layout of the structures or appurtenances within the boundaries of the approved Drilling and Production Site.
 - d. Change the access road(s) or the location of the access road(s).
- 2. The application shall be reviewed and decided in the same manner as the original application for the Drilling and Production Site.
- 3. The setback requirements of Section 35.5.10.2 shall apply to activities described in Sections B.1.a and B.1.b above.
- 4. An approved Amended Gas Well Development Site Plan shall be recorded as required by Section A.5 above.

C. Expiration and Extension of Gas Well Development Site Plans.

- 1. A Gas Well Development Site Plan for a new Drilling and Production Site expires unless a complete application for a Gas Well Permit has been filed within one (1) year of the date of approval of the Site Plan, or no drilling and production activities have occurred on the Site for a period of three (3) years.
- 2. A Gas Well Development Site Plan for an Existing Site does not expire, unless no drilling and production activities have occurred on the site for a period of two (2) years after all wells on the site have been plugged and abandoned.
- 3. An Operator may seek a special exception from the Board of Adjustment pursuant to Section 35.5.10.6.B for a one-year extension of the expiration date for a Gas Well Development Site Plan for a new Drilling and Production Site.

35.5.10.5. Gas Well Permits.

A. Applicability and Exceptions.

1. Any person, acting for himself or acting as an agent, employee, independent contractor, or servant for any person, shall not engage in Initial Drilling Activities within the corporate limits of the City without first obtaining a Gas Well Permit.
2. A Gas Well Permit shall be required for each well. No Gas Well Permit shall be issued for multiple wells.
3. A Gas Well Permit shall not be required for exploration for gas. Exploration of gas means geologic or geophysical activities, including, but not limited to surveying and seismic exploration not involving explosive charges, related to the search for oil, gas, or other sub-surface hydrocarbons. A seismic permit is required for impact-based exploration.
4. A Gas Well Permit shall constitute authority for Initial Drilling Activities, Completion Operations, Production Operations, Workover Operations and Redrilling with proper notice pursuant to Section 35.22.7.
5. By acceptance of any Gas Well Permit issued pursuant to this section, the Operator expressly stipulates and agrees to be bound by and comply with the provisions of Section 35.5.10 and Chapter 35.22 of the Denton Development Code. The terms of such provisions shall be deemed to be incorporated in any Gas Well Permit issued pursuant to this section with the same force and effect as if such gas well development regulations were set forth verbatim in such Gas Well Permit.
6. A Gas Well Permit is not required to authorize Workover Operations, Drilling Activities or Production Activities for an existing well conducted on an Existing Site, if such activities were authorized under a gas well permit approved by the Gas Well Administrator pursuant to gas well regulations in effect prior to the effective date of this amendatory ordinance; provided that nuisance and sound mitigation requirements under Section 35.2.F.1 and F.2 and notice requirements under Section 35.22.7.C shall apply to such activities. An Operator is not relieved from the obligation to obtain additional Fire Code permits for such activities.

B. Application Requirements.

1. Applications for Gas Well Permits shall include the following:
 - a. File marked copy of recorded Gas Well Site Development Plan;
 - b. A completed application and permit form provided by the City that is signed by the applicant;
 - c. The application fee;
 - d. Upon completion of construction of the Drilling and Production Site, a copy of the As-built Gas Well Development Site Plan;
 - e. A copy of the permit issued by the RRC and corresponding API number;
 - f. Well and Operator information;
 - g. Description of work to be performed;
 - h. Anticipated start date;
 - i. Water source to be used for Completion Operations;
 - j. Verification that notices were provided in accordance with Section 35.22.7.B; and
 - k. Proof of insurance and security.

C. Procedures and Criteria.

1. **Filing of application.** All applications for Gas Well Permits shall be filed with the Department. Incomplete applications shall be returned to the applicant, in which case the City shall provide a written explanation of the deficiencies. The City shall retain a processing fee determined by ordinance. The City may return any application as incomplete if there is a

dispute pending before the Railroad Commission regarding the identity or authority of the Operator for the gas well.

2. **Criteria.** The Gas Well Administrator shall approve the application if it meets the following standards:
 - a. The application is consistent with the approved Gas Well Development Site Plan and any conditions incorporated therein.
 - b. The application meets applicable standards of Section 35.22.2.
 - c. The application is in conformance with the insurance and security requirements set forth in Section 35.22.3 and Section 35.22.4.
3. **Conditions.** The Gas Well Administrator shall not approve a Gas Well Permit until after the Operator has provided:
 - a. The security and insurance required by Subsections 35.22.3 and 35.22.4;
 - b. Payment of the required Road Damage Remediation Fee that will obligate the Operator to repair damage excluding ordinary wear and tear, if any, to public streets, including but not limited to, damage to bridges caused by the Operator or by the Operator's employees, agents, contractors, subcontractors or representatives in the performance of any activity authorized by or contemplated by the approved Gas Well Permit.
4. An Operator may obtain a conditional Gas Well Permit contingent upon the submittal of an As-Built Gas Well Development Site Plan that conforms to the approved Gas Well Development Site Plan. The Gas Well Administrator shall review the As-Built submittal within three (3) business days. Upon the written determination of the Gas Well Administrator that the As-Built Gas Well Development Site Plan conforms to the legal description as approved in the Gas Well Development Site Plan, the Operator may commence Drilling Activities.
5. **Contents of Permit.** Each Gas Well Permit issued by the Gas Well Administrator shall:
 - a. Identify the name of each well and its Operator;
 - b. Specify the date on which the Gas Well Administrator issued each Permit;
 - c. Specify the Permit expiration date;
 - d. Specify that if drilling is commenced before the Permit expires, the Permit shall continue until the well covered by the Permit is abandoned and the site restored;
 - e. Incorporate, by reference, the insurance and security requirements set forth in Subsection 35.22.3 and Subsection 35.22.4;
 - f. Incorporate, by reference, the requirement for periodic reports set forth in Subsection 35.22.6 and for Notice of Activities set forth in Subsection 35.22.7;
 - g. Incorporate the full text of the release of liability provisions set forth in Subsection 35.22.3.A.1;
 - h. Incorporate, by reference, the conditions of the applicable Watershed Protection Permit to which the Gas Well Permit is subject;
 - i. Incorporate, by reference, the information contained in the Permit application;
 - j. Include the statement that all Drilling and Production Activities are subject to the applicable rules and regulations of the RRC, including the applicable "Field Rules," TCEQ and United States Army Corps of Engineers;
 - k. Contain the name, address, and phone number of the person designated to receive notices from the City;

- I. Contain the name, address and phone number of the person designated to receive service of process from the City, which person shall be a resident of Texas that can be served in person or by registered or certified mail;
 - m. Incorporate the well's RRC permit number and the American Petroleum Institute (API) number;
 - n. Incorporate, by reference all other applicable provisions set forth in the DDC;
 - o. Contain a notarized statement signed by the Operator, or designee, that the information is, to the best knowledge and belief of the Operator or designee, true and correct;
 - p. Contain a statement that the Operator acknowledges and voluntarily consents to be inspected by the City to ensure compliance with this Subchapter, Subchapter 22, and applicable provisions of the DDC, and the City Code; and
 - q. If the Drilling and Production Site has not been constructed, an As-Built Gas Well Development Site Plan must be approved prior to commencement of Drilling Activities.
6. **Denial of Permit.**
 - a. The decision of the Gas Well Administrator to deny an application for a Gas Well Permit shall be provided to the Operator in writing within ten (10) days after the decision, including an explanation of the basis for the decision.
 - b. If an application for a Gas Well Permit is denied by the Gas Well Administrator, nothing herein contained shall prevent a new Gas Well Permit application from being resubmitted.

D. **Expiration of Gas Well Permit.**

1. A Gas Well Permit is valid for a period of one (1) year and shall automatically expire, unless Initial Drilling Activities have commenced prior to such date.
2. If a Gas Well Permit has been issued by the City but Initial Drilling Activities have not commenced prior to the expiration date of the Permit, the Permit shall not be extended unless a special exception has been approved by the Board of Adjustment pursuant to Section 35.5.10.6; however, the Operator may reapply for a new Permit, as long as the Gas Well Development Site Plan remains in effect.

E. **Transfer of Gas Well Permit.** A Gas Well Permit may be transferred by the Operator with the written consent of the City if the transfer is in writing signed by both parties, if the transferee agrees to be bound by the terms and conditions of the transferred Permit, if all information previously provided to the City as part of the application for the transferred Permit is updated to reflect any changes, and if the transferee provides the insurance and security required by Section 35.22.3 and Section 35.22.4. The insurance and security provided by the transferor shall be released if a copy of the written transfer is provided to the City and all other requirements provided in this subsection are satisfied. The transfer shall not relieve the transferor from any liability to the City arising out of any activities conducted prior to the transfer.

35.5.10.6. Relief Measures.

A. **Waiver Procedures for Setback Reductions.**

1. **Property Owner Waivers for Drilling and Production Sites.** An Operator may obtain a reduction in the Drilling and Production Site Setback requirements of Section 35.5.10.2 by procuring written, notarized waivers from one hundred (100) percent of the owners of Protected Uses and the owners of lots in Residential subdivisions that are within the required setback.
 - a. Property owner waivers must be in a format approved by the City and shall include an aerial exhibit attached clearly depicting the boundaries of the proposed Drilling and Production Site where well development could occur and the closest dimension to each

Protected Use and each lot in the Residential Subdivision for which the waiver is being requested. Signatures are required on both the form and exhibit.

- b. Written notarized waivers granted by all the property owners within the prescribed setback distance from a Drilling and Production Site must be filed, at the expense of the Operator, in the Denton County records. All waivers must identify the property address, block and lot number, subdivision name and plat volume and page number. Copies of filed property owner waivers must be submitted with the filing of a complete application for a Gas Well Development Site Plan.
 - c. If the Operator fails to obtain written waivers from all property owners within the prescribed Drilling and Production Site Setback, the Operator may submit a request for a variance to the Board of Adjustment pursuant to subsection 35.10.6.B, or a request for an administrative variance, pursuant to subsection 35.10.6.C.
2. **Effect of Surface Development on Drilling and Production Site Setback Waivers.** After the effective date of this amendatory ordinance, when a property owner constructs a Protected Use or develops a Residential Subdivision within the Drilling and Production Site Setback for an Existing Site prescribed by Section 35.5.10.2.C, such property owner shall be deemed to have granted the Operator a waiver in satisfaction of subsection (1) requirements for that property containing the Protected Use or constituting the Residential Subdivision. This waiver shall apply to all successor property owners. This does not relieve an Operator from obtaining waiver(s) from all other property owners located within the Drilling and Production Site Setback for the Existing Site.
3. The notice provisions of Section 35.22.7.B apply to procedures under this Section A.

B. Board of Adjustment Proceedings.

1. The Board of Adjustment shall hear and decide appeals of orders, decisions, or determinations made by the Gas Well Administrator relative to the application and interpretation of this Section 35.5.10, except for vested rights appeals and matters described in Section 35.22.8.F; furthermore, the Board of Adjustment shall hear and decide requests for variances to the provisions of this Section 35.5.10 under the relevant criteria set forth below. The Board may also grant special exceptions extending the expiration date of a Gas Well Development Site Plan or a Gas Well Permit for a period not to exceed one (1) year. Any Operator or surface owner who desires to appeal the decision of the Gas Well Administrator, request a variance or request a special exception may file the appeal or request to the Board of Adjustment pursuant to Section 35.3.6 of the DDC. Appeal fees shall be required for every appeal variance or special exception request. For purposes of this Section, the Gas Well Administrator has designated authority from the Director of Planning to make final orders, decisions or determinations.
- a. **Standard of review for appeals.** The members of the Board of Adjustment shall have and exercise the authority to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the approval or denial of a Gas Well Development Site Plan or Gas Well Permit. The Board of Adjustment may reverse or affirm, in whole or in part, or modify the Gas Well Administrator's order, requirement, decision or determination from which an appeal is taken.
- b. **General criteria for review of variances.** In deciding requests for variances, the Board of Adjustment shall consider, where applicable, the following relevant criteria:
 - i. Whether there are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions and location that do not apply generally to other property in the vicinity;
 - ii. Whether a variance is necessary to permit the applicant the same rights in the use of his property that are presently enjoyed by other similarly situated properties, but which rights are denied to the property on which the application is made;

- iii. Whether the granting of the variance on the specific property will adversely affect any other feature of the comprehensive master plan of the City;
- iv. Whether the variance, if granted, will be of no material detriment to the public welfare or injury to the use, enjoyment, or value of property in the vicinity;
- v. Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the vicinity considering the particular location and the character of the improvements located there; and
- vi. Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the Gas Well Development Site Plan or Gas Well Permit conditions to be imposed.

2. **Standard of review for setback variances.**

- a. In deciding requests for variances to Drilling and Production Site Setbacks, the Board of Adjustment shall consider, where applicable and in addition to the general criteria stated in subsection (b), the following relevant criteria:
 - i. Whether there is reasonable access for City fire personnel and firefighting equipment, including the ability to safely evacuate potentially affected residents.
 - ii. The extent to which the Operator and the surface owner(s) are in agreement on a plan for development of the property, have provided for adequate access and traffic circulation, and taken measures to promote compatibility of gas well development and other surface development of the property.
 - iii. For a request by an Operator to reduce Drilling and Production Site Setbacks, whether the impact upon adjacent property and the general public from gas well development under the requested setback will be substantially increased, considering:
 - (a) The reasonable use of the mineral estate by the mineral estate owner(s) to explore, develop, and produce the minerals;
 - (b) The availability of alternative drilling sites; and
 - (c) The number of owners of Protected Uses or lots in a Residential Subdivision who are willing to waive the Drilling and Production Site Setback as requested or in modified form.
- b. In deciding the request for a variance to setback requirements, the Board may approve the request as granted, modify the request or deny the request. In granting a variance for reduction of a Drilling and Production Site Setback, the Board may impose such conditions as are necessary to mitigate the impacts of the reduced setbacks and to preserve the public health and safety, including but not limited to, the enhanced mitigation standards contained in Section 35.22.2.G.
- c. In no event shall the Board of Adjustment reduce the Minimum Setbacks set forth in Section 35.5.10.2.

3. The Board of Adjustment shall determine whether to grant an extension of the expiration for a Gas Well Development Site Plan or Gas Well Permit based upon whether there are circumstances reasonably beyond the control of the Operator, including any delay on the part of the City in issuing subsequent permits, that justify an extension of the Site Plan or Permits, in order that the Operator may enjoy the same rights in the use of the property that are presently enjoyed by other similarly situated properties, but which rights are denied to the property for which the Site Plan or Permits have expired or are suspended.

4. Any action under this subsection B shall require a three-fourths majority vote of the entire Board of Adjustment.

5. Any Operator or other person aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, stating that such decision is illegal, in whole or in part, and specifying the grounds of the alleged illegality. Such petition shall be presented within ten (10) days after the date on which the decision of the Board of Adjustment was rendered and not thereafter, and judicial review of the petition shall be pursuant to Texas Local Government Code, § 211.011, as amended.

C. **Administrative Variance Procedures.** An Operator may request an administrative variance to the Drilling and Production Site Setback requirements of Section 35.5.10.2 for a New or Existing Site from the Gas Well Administrator under the following circumstances:

1. The Operator has at least one (1) Existing Site on the property under mineral lease for the property or for contiguous leased property;
2. Such Existing Site(s) is located closer to Protected Uses or Residential Subdivisions than is the proposed Drilling and Production Site to such uses; and
3. The Operator agrees in a written instrument capable of recording to limit gas well development on such Existing Site(s) to existing Gas Well Drilling and Production Activities.

For each Existing Site so restricted, the Gas Well Administrator may reduce the Drilling and Production Site Setback by an amount calculated as follows: Fifty (50) percent of the difference between the Drilling and Production Site Setback and the Minimum Setback. As a condition of granting the administrative variance, the Gas Well Administrator shall require that the Operator's written agreement be recorded in the Denton County records at the Operator's expense.

D. **Vested Rights Appeals.** Any person who claims that he has obtained a vested right pursuant to Texas Local Government Code, Chapter 245 or other applicable vesting law under prior gas well development regulations from the requirements of Subchapters 5 or 22 as they pertain to gas well development, may request a determination pursuant to Section 35.3.8 of the DDC. For proposed gas wells to be located inside the City limits, the petitioner shall include a statement of the reasons why the regulations contained in Subchapters 5 or 22 as they pertain to Gas Well Development are not exempt pursuant to Tex. Loc. Gov't Code section 245.004.

(Ord. No. 2002-347, 10-15-2002)

(Ord. No. 2002-348, 10-15-2002)

(Ord. No. 2003-090, 3-25-2003)

(Ord. No. 2002-348 10-15-2002)

(Ord. No. 2003-376, 11-18-2003)

(Ord. No. 2004-009, 1-6-2004)

(Ord. No. 2005-100 3-22-2005)

(Ord. No. 2005-224, 8-16-2005)

(Ord. No. 2006-085, 3-21-2006)

(Ord. No. 2008-318, § 2(exh. A), 12-9-2008)

(Ord. No. 2009-115, § 2(exh. A), 5-5-2009)

(Ord. No. 2010-195, § 2(exh. A), 8-17-2010)

(Ord. No. 2011-088, § 4, 5-17-2011)

(Ord. No. 2012-155, § 2(Exh. A), 7-17-2012)

(Ord. No. 2013-183, § 2(Exh. A), 7-16-2013)

(Ord. No. 2014-139, § 2, 5-6-2014)

(Ord. No. 2015-010, § 2, 1-6-2015)

(Ord. No. 2015-219, § 2(Exh. A), 7-21-2015)

(Ord. No. 2015-233, §§ 2(Exh. 1), 3(Exh. 2), 8-4-2015)

(Ord. No. 2016-056, § 2(Exh. A), 2-16-2016)