



Legislation Details (With Text)

**File #:** DCA14-0009k      **Version:** 1      **Name:**

**Type:** Planning Case

**File created:** 7/15/2015      **In control:** City Council

**On agenda:** 7/28/2015      **Final action:**

**Title:** Hold a discussion on complementary amendments to the Denton Development Code; specifically Subchapters 5, 16, and 22, relating to Gas Well Drilling and Production, Definitions, and Procedures; in order to reconcile Denton’s gas well regulations with House Bill 40 that was signed into law on May 18, 2015.

**Sponsors:** City Council

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Agenda Information Sheet

**DEPARTMENT:** Planning and Development

**CM/ ACM:** Jon Fortune

**Date:** July 28, 2015

**SUBJECT**

Hold a discussion on complementary amendments to the Denton Development Code; specifically Subchapters 5, 16, and 22, relating to Gas Well Drilling and Production, Definitions, and Procedures; in order to reconcile Denton’s gas well regulations with House Bill 40 that was signed into law on May 18, 2015.

**BACKGROUND**

On December 16, 2014, the City Council and Planning and Zoning Commission (P&Z) held a joint Public Hearing concerning ordinance amendments to Subchapters 5, 7, 16, and 22 of the Denton Development Code. City Council continued the public hearing to their January 6, 2015 meeting and P&Z closed their public hearing, but delayed action as an Item for Individual Consideration. Since the initial joint public hearing for DCA14-0009, the P&Z deliberated on this topic during three public meetings and ultimately voted 4-3 to recommend denial of the initially proposed revisions. In addition, the City Council deliberated on this matter during eight separate meetings.

During the course of City deliberations on DCA14-0009, the Texas Legislature was also working to propose statewide regulations that impacted municipal regulatory oversight of urban oil and gas drilling. Specifically, House Bill 40 (HB 40), relating to the exclusive jurisdiction of this state to regulate oil and gas operations in this state and the express preemption of local regulation of those operations, was enacted by the Texas

Legislature and signed by the Governor on May 18, 2015. This new legislation prompted City staff to review the City’s gas well regulations, including the current rules and previously proposed revisions, in order to reconcile the municipal ordinances with state law. In light of the statewide changes brought forth from HB 40, staff concluded that the initially proposed amendments to Subchapters 5, 7, 16 and 22 of the Denton Development Code needed further consideration. As a result, on June 16, 2015, the City Council decided to remand DCA14-0009 back to the P&Z to develop new, innovative DDC amendments.

House Bill 40 provides that municipalities may enact, amend, or enforce an ordinance that regulates aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements so long as such regulation is commercially reasonable and does not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator and which is not otherwise preempted by law. The table included on the following page summarizes the respective regulatory authority spelled out under House Bill 40 for various oil and gas related activities.

**House Bill 40:**

<b>Oil and gas operation activities preempted:</b>	<b>Aboveground surface activities City can regulate:</b>
1. Exploration, development, production, processing, and transportation of oil & gas;	1. Fire and emergency response
2. Drilling;	2. Traffic
3. Hydraulic fracturing;	3. Lights
4. Completion;	4. Noise
5. Maintenance;	5. Imposing Notice
6. Reworking;	6. Reasonable setback requirements
7. Recompletion;	
8. Disposal;	
9. Plugging and abandonment;	
10. Secondary or tertiary recovery; and	
11. Remediation activities.	

The ordinance revisions are still intended to remedy the impacts of hydrocarbon exploration in an urban environment, to include oil and gas operations that occur at or above the surface of the ground; such as emergency response, traffic, lights, noise, notice, and setback requirements. Primary objectives for the proposed revisions are to preserve: surface property values; the character of neighborhoods; and other quality of life issues in the city of Denton. To achieve this goal, Subchapter 22 of the Denton Development Code (DDC) was streamlined and reorganized to provide a clear understanding of the gas well development requirements inside the city limits.

In addition to changes contained within Subchapter 22, revisions to additional DDC Chapters have been proposed. In some cases, existing provisions were amended, such as for the use charts and the limitations by

type of zoning district contained in Subchapter 5. In other cases, an entire new subsection is being added, such as the provisions proposed as an addition under Subchapter 35.5.10.1-6 and the additions proposed as Subchapter 35.16.7.E-F. The list of new ordinance amendments is as follows:

1. DDC Section 35.5.10.1 - Purpose, Authority, and Applicability
2. DDC Section 35.5.10.2 - Required Authorization for Gas Well Development in City
3. DDC Section 35.5.10.3 - General Permit Requirements
4. DDC Section 35.5.10.4 - Gas Well Development Site Plans
5. DDC Section 35.5.10.5 - Gas Well Permits
6. DDC Section 35.5.10.6 - Relief Measures
7. DDC Section 35.22.1 - Definitions
8. DDC Section 35.22.2 - Standards for Gas Well Drilling and Production
9. DDC Section 35.22.3 - Indemnification and Insurance
10. DDC Section 35.22.4 - Security
11. DDC Section 35.22.5 - Inspection
12. DDC Section 35.22.6 - Periodic Reports
13. DDC Section 35.22.7 - Notice of Activities
14. DDC Section 35.22.8 - Remedies, Enforcement, and Right of Entry
15. DDC Section 35.22.9 - Watershed Permits for Gas Well Developments
16. DDC Section 35.16.7 - Lots, Access, and Common Areas

### **OPTIONS**

Approve, deny or postpone the action.

### **RECOMMENDATION**

On July 22, 2015, the Planning and Zoning Commission (P&Z) voted 7-0 to recommend APPROVAL of DCA14-0009, with amendments.

Staff recommends APPROVAL of DCA14-0009, as amended.

### **PRIOR ACTION/REVIEW:**

On December 16, 2014, the City Council and P&Z held a joint Public Hearing concerning ordinance amendments to Subchapters 5, 7, 16, and 22 of the Denton Development Code. City Council continued the public hearing to their January 6, 2015 meeting and P&Z closed their public hearing, but delayed action as an Item for Individual Consideration.

On January 6, 2015, City Council voted 6-0 to continue the public hearing for DCA14-0009 to their next meeting.

On January 7, 2015, P&Z voted 7-0 to delay action on the Item for Individual Consideration of DCA14-0009 until their next meeting.

On January 13, 2015, City Council voted 7-0 to continue the public hearing for DCA14-0009 to an event certain, which is the meeting following receipt of a recommendation report from P&Z.

On January 21, 2015, P&Z voted 7-0 to delay action on the Item for Individual Consideration of DCA14-0009 until their next meeting.

On February 4, 2015, P&Z voted 4-3 to recommend DENIAL of DCA14-0009, as presented.

On February 17, 2015, City Council voted 7-0 to continue the public hearing for DCA14-0009 to March 3, 2015.

On March 3, 2015, City Council voted 7-0 to continue the public hearing for DCA14-0009 to March 24, 2015.

On March 24, 2015, City Council voted 7-0 to continue the public hearing for DCA14-0009 to April 7, 2015.

On April 7, 2015, City Council voted 7-0 to continue the public hearing for DCA14-0009 to April 14, 2015.

On April 14, 2015, City Council voted 7-0 to continue the public hearing for DCA14-0009 to June 16, 2015.

On June 16, 2015, City Council voted 6-1 to remand DCA14-0009 back to P&Z for a public hearing on July 22, 2015.

On July 22, 2015, P&Z voted 7-0 to recommend APPROVAL of DCA14-0009, with amendments.

Respectfully submitted:  
Aimee Bissett  
Interim Planning & Development Director

Prepared by:  
Darren Groth, AICP, CPM, REP  
Manager, Gas Well Inspections Division