

ORDINANCE NO. 1891

INTRODUCED BY: BENSON, BULLOCK, CARSON, DOUGLAS, ELLOITT, FORD,
MCELDOWNEY, MORENO, TETER

AN ORDINANCE AMENDING ARTICLES III, V AND XI OF THE CITY'S LAND DEVELOPMENT CODE TO REVISE AND ADD REGULATIONS RELATING TO SUBSURFACE EXTRACTION AND OIL AND GAS EXPLORATION

WHEREAS, domestic oil and gas exploration, along with the potential associated pollution and health risks, have increased in proximity to residential areas in urban, suburban, and rural communities across the United States and in Colorado;

WHEREAS, the Greater Wattenberg Area ("GWA"), which encompasses the City of Commerce City (the "City"), and most of Denver, Boulder, Weld, Larimer, Adams, Broomfield, and parts of Arapahoe and Douglas Counties, is the focus of a surge in these activities;

WHEREAS, oil and gas development and production, particularly in association with horizontal drilling and hydraulic fracturing, entails industrial processes that may occur in close proximity to populated areas of the City for many years to come, which, in addition to potential health and pollution concerns, may also generate increases in heavy truck traffic on City streets and likely increase demand for emergency and other City services, all of which will come at a cost to the City;

WHEREAS, in recent months, the potential impacts of subsurface extraction and oil and gas exploration, and hydraulic fracturing in particular, have received considerable media attention, both in Colorado and across the country, allowing the public to become more educated and, as a result, more concerned about the potential impacts of such oil and gas development and production on air, water and wildlife resources, property values and the people that live and work in close proximity to oil and gas operations;

WHEREAS, in response to growing citizen concerns, the City Council formed the Commerce City Oil and Gas Land Use Review Committee (the "Committee"), comprised of citizen, industry and regulatory representatives, in an effort to assess the need for regulation of oil and gas development and production within the City and to propose new regulations to be incorporated into the City's Land Development Code (the "LDC");

WHEREAS, as a result of the Committee's work and meetings with various stakeholders, City staff have proposed certain amendments to the LDC;

WHEREAS, the City Council adopted the LDC by Ordinance 1720, which became effective March 1, 2009;

WHEREAS, as originally adopted, the LDC contained minimal regulations governing subsurface extraction and oil and gas exploration;

WHEREAS, the City has authority pursuant to C.R.S. § 31-15-401, § 29-20-101, *et seq.*, § 34-60-101, *et seq.*, § 30-28-101, *et seq.*, and Colorado Constitution Article XX, Section 6, to adopt reasonable rules and regulations that govern oil and gas development;

WHEREAS, the City Council hereby finds and determines that the proposed amendments to the LDC will allow for oil and gas development within the City, ensure adequate review of proposed oil and gas facilities within the City's jurisdiction and provide adequate protection to the City's residents and resources to the extent allowed by law; and

WHEREAS, the City Council further finds and determines that adoption of the proposed LDC amendments is and will be in the best interests, and is necessary to protect the health, safety and welfare, of the residents of the City of Commerce City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

SECTION 1. Section 21-3216 of the Land Development Code of the City of Commerce City relating to **Temporary Use Permits** is hereby renumbered as Section 21-3217.

SECTION 2. Sections 21-3180 and 21-3200 of the Land Development Code of the City of Commerce City are hereby amended to read as set forth in the attached Exhibit A, which Exhibit A is incorporated by this reference as though fully set forth herein.

SECTION 3. A new Section 21-3216 relating to **Oil and Gas Permits** is hereby added to the Land Development Code of the City of Commerce City as set forth in Exhibit A.

SECTION 3. Section 21-5266 of the Land Development Code of the City of Commerce City is hereby amended to read as Sec. 21-5266 is set forth in the attached Exhibit B, which Exhibit B is incorporated by this reference as though fully set forth herein.

SECTION 4. Section 21-11200 of the Land Development Code of the City of Commerce City is hereby amended to add the terms and definitions as identified in Exhibit B under "Sec. 21-11200. Definitions."

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 18TH DAY OF JUNE, 2012.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 2ND DAY OF JULY, 2012.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk