

Sec. 21-3110. Neighborhood Meetings

- (1) **Purpose.** Neighborhood meetings are intended to inform neighboring property owners of the details of a proposed development, how the developer intends to meet the standards contained in this land development code, and to receive feedback on the proposal early in the review process.
- (2) **Applicability.** The city may require a neighborhood meeting when it appears that an application may have significant neighborhood impacts, including without limitation, impacts related to: traffic; provision of public services such as safety, schools, or parks; compatibility of building design or scale; or operational compatibility such as hours of operation, noise, dust, or glare. Unless exempted by 21-3216(8), significant neighborhood impacts shall be presumed for all oil and gas permit applications and a minimum of one neighborhood meeting shall be required.
- (3) **Number of Meetings.** When required, there shall be at least one neighborhood meeting held. Such meeting shall be held prior to submittal of a formal application; prior to any administrative action on the application; or a minimum of 21 days prior to the first public hearing on the application. The director may require additional neighborhood meetings due to the proposed development's mix of uses, density, complexity, potential for impacts, or the need of off-site public improvements created by the development.
- (4) **Attendance Required.** If a neighborhood meeting is required, the applicant or applicant's representative shall attend and conduct the meeting.
- (5) **Scheduling and Location.** The applicant shall be responsible for scheduling the neighborhood meeting at a time when a department staff member can attend, shall coordinate the neighborhood meeting, and shall retain an independent facilitator if needed. All neighborhood meetings shall be convened at a place in the vicinity of the proposed development.

DIVISION 2: REVIEW

Sec. 21-3200. Required Review

Applications shall be reviewed in accordance with the processes and standards set forth in this land development code. Table III-2, Development Review Table, establishes the review steps required for specific forms of site development.

Table III-2. Development Review Table

APPLICATION TYPES	REQUIRED REVIEWS					REFERENCE	LAPSE PERIOD
	Staff	DRT	PC	CC	BOA		
Administrative Applications							
Building and Sign Permits	R	R ¹			H ³	§ 21-3210	6 months
Concept Plans	R	R				§ 21-3211	n/a
Development Plans	R	R	H ¹	H ¹		§ 21-3212	2 years
Floodplain Development Permits	R	R ²			H ¹	§ 21-3213	2 years
Grading Permits	R				H ¹	§ 21-3214	30 days
Minor Modifications	R	R ¹			H ¹	§ 21-3215	1 year
Temporary Use Permits	R	R ¹			H ¹	§ 21-3217	§ 21-3217
Applications Requiring BOA Approval							
Height Exceptions	R	R			H	§ 21-3220	3 years
Uses-by-Permit	R	R			H	§ 21-3221	2 years
Variances	R	R			H	§ 21-3222	1 year
Applications Requiring Approval by City Council							
Annexations	R	R	H ¹	H		Division III-	n/a
Comprehensive Plan Amendments Minor	R	R	H ¹	H		§ 21-2110	n/a
Comprehensive Plan Amendments Non Minor	R	R	H	H		§ 21-2110	n/a
Conditional Use Permits	R	R	H	H		§ 21-3230	2 years
Model and Elevation Review	R	R ¹	R ¹	R ¹		§ 21-3231	90 days
Rezoning or Zone Changes	R	R	H	H		§ 21-3232	n/a
Vacation of Rights-of-Way	R	R	H	H		§ 21-3233	60 days
Vested Property Right/Site Specific Development Plans	R	R	H	H		§ 21-3234	3 years
Developments with Multiple Steps							
<u>Planned Unit Development (PUD)</u>							
Concept Schematics	R	R	H ¹			§ 21-3250	n/a
Zone Documents/Amendments	R	R	H	H		§ 21-3251	n/a
Development Permits	R	R	H ¹	H ¹		§ 21-3252	2 years
<u>Subdivisions</u>							
Consolidation Plats	R	R	H ²	H ²		§ 21-3243	60 days
Lot Line and Terminology Adjustments	R	R ¹	H ¹	H ¹		§ 21-3244	60 days
Plat Corrections and Revisions	R	R ¹	H ¹	H ¹		§ 21-3242	60 days
Sketch Plats	R	R				§ 21-3240	n/a
Final Plats (administrative)	R	R	H ²	H ²		§ 21-3241	60 days
Final Plats (public hearing)	R	R	H	H		§ 21-3241	60 days
<u>Oil and Gas Permits</u>							
Oil and Gas Permits (administrative)	R	R				§ 21-3216	§ 21-3216
Oil and Gas Permits (public hearing)	R	R	H	H		§ 21-3216	§ 21-3216

Key	
PC	Planning Commission
CC	City Council
BOA	Board of Adjustment
DRT	Development Review Team

Key	
<i>H</i>	<i>Public Hearing</i>
<i>H¹</i>	<i>Hearing upon appeal from staff decision or from director or city council request</i>
<i>H²</i>	<i>Hearing upon appeal from staff decision or by request of director, city council, or public</i>
<i>H³</i>	<i>Hearing on appeal of zoning related matters. Appeals related to building matters are heard by the board of building appeals.</i>
<i>R</i>	<i>Review</i>
<i>R¹</i>	<i>Review requested by director</i>
<i>R²</i>	<i>Review requested by floodplain administrator</i>

Section amended by Ord. 1891, August 2012

Section amended by Ord. 2183, November 2018

Sec. 21-3216. Oil and Gas Permits

- 1. Description.** An Oil and Gas Permit allows the permit holder to undertake construction of an oil and gas project. The review of such permit is intended to ensure compliance with this land development code. Oil and Gas Permits shall encompass, as part of its authorization, the right of the Operator, its agents, employees, subcontractors, independent contractors, or any other person to perform that work reasonably necessary to conduct the activities authorized by the Oil and Gas Permit, subject to all other applicable City permits, regulations requirements, and state and federal laws and regulations.
- 2. Requirement.** No building permit shall be issued, and no development, excavation, site preparation, or construction activity, including tree/vegetation removal or grading, shall occur on any property in connection with a Well Site until an Oil and Gas Permit has been approved in accordance with this section.
- 3. Public Notification Process.** The City shall follow the public notification procedures outlined in Article III and all costs of property owner notification shall be borne by the Operator.
- 4. Public Comment Procedures.** During the Public Notification process, members of the public will have the opportunity to file written comments with the City. The deadline for providing these comments shall be contained in the public notification of the process as outlined in the public notification section. The comments received can be used by the Director to inform the decision based on the relevance to the Approval Criteria and accuracy of the comments. Any written objection or request must be directly related to the proposed Oil and Gas Permit.
- 5. Initial Assessment Process & Site Eligibility Determination.**
 - a. Mandatory meeting.** Prior to submittal of any individual Oil and Gas Permit application, all potential Operators shall conduct a minimum of one meeting with City staff. The Operator shall provide to the City

sufficient information and facts, in writing and prior to the meeting, to allow the City to make a determination as to the process for determining the eligibility of a site and the application process (i.e., whether an alternative site analysis will be required; whether an administrative or City Council review process will be required). If the City is unable to determine if an alternative site analysis will be required, the Operator shall be required to attend additional meetings and provide supplemental information. Full participation and cooperation in the Initial Assessment Process and site eligibility determination, followed by the issuance of an Eligibility Letter, shall be a prerequisite to the submission of an application for an Oil and Gas Permit.

- b. Site Eligibility. Before submitting any application for an Oil and Gas Permit, the Operator shall obtain a determination on the eligibility of all proposed locations. Locations not deemed eligible pursuant to this subsection shall not be included in any application or permitted as Well Sites.
 - i. Limited exemption. Proposed locations shall automatically be deemed eligible for the submission of an application and exempt from the requirement of an alternative location analysis if the site meets all of the following criteria:
 1. Is located more than 2,000' from the following:
 - a. Any existing residential, platted residential, or property currently entitled for residential use, not including properties zoned Agricultural over 10 acres in size;
 - b. Any facility classified as a High Occupancy Building Unit, as defined by the COGCC;
 - c. Any Public Park or Public Recreation facility, not including trails or City designated open space;
 - d. Outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar places of outdoor public assembly; and
 - e. Senior living or assisted living facilities;

2. Is located more than 500' from the following:
 - a. The centerline of all USGS perennial streams;
 - b. Public Water Supply Wells;
 - c. Reservoirs; and
 - d. Areas defined as land unsuitable for development in Section 21-7100.
3. Is outside of FEMA 100 Year Floodplain boundary and any surface water features; and
4. Meets at least **one** of the following criteria
 - a. Is currently zoned I-2, I-3, or PUD with a use category of “general industrial;” or identifies Oil and Gas resource extraction (i.e. subsurface extraction) as an allowed use; or
 - b. Has a future land use designation of Industrial / Distribution or General Industrial

Measurements shall be taken from the edge of the proposed Production Site to the parcel boundary. The edge of the proposed Production Site shall be defined as the maximum extent of the facility during the production phase.

- ii. Alternative Site Location Analysis. If not automatically deemed eligible, the applicant shall prepare and submit an alternative site location analysis including, at a minimum, the following information:
 1. All drilling and spacing units proposed by the applicant within the City and within 1 mile of the City's municipal boundaries;
 2. The location of all features listed in section 21-3216(5)(b)(i)(1-3) within 1 mile of all drilling and spacing units proposed by the applicant;
 3. A minimum of three potential sites that can reasonably access the mineral resources within the

proposed drilling and spacing unit(s), including the following information for each site:

- a. General narrative description of the site;
- b. The applicant's basis for proposing each site;
- c. A summary of the off-site impacts that may be associated with each site;
- d. Any factors listed in section 21-3216(5)(b)(i) that the particular site does not meet;
- e. Proposed truck traffic routes and access roads for each site; and
- f. Any information pertinent to the applicable review criteria that will assist the City in evaluating the sites.

iii. **Review Criteria.** The Director may determine that a site identified in the alternative site location analysis is eligible to submit an application, based on the following:

1. A proposed site's conformance with the City's adopted Comprehensive Plan, and any other applicable adopted plans;
2. The absence of any significant impacts the proposed site location may have on adjacent properties;
3. Adequate surface acreage and suitable topography for safe and efficient operations;
4. The ability to access targeted minerals with technology available at the time of development;
5. The ability to reasonably implement the protections contained in the BMP Document from the proposed location;
6. The ability to consolidate facilities with other planned drilling and spacing units proposed within the City's municipal boundaries;

7. The ability to reconfigure proposed drilling and spacing unit applications to provide more suitable surface use locations;
8. The existence of a surface use agreement between any landowner and a potential operator shall not be a factor of consideration in the city's review of an alternative location analysis; and
9. Any other relevant considerations impacting public health, welfare, safety, and the environment.

iv. Disposition. The Director or designee shall provide the applicant a written assessment ("Eligibility Letter") indicating which, if any, of the proposed locations qualify as eligible sites or whether the proposed location is automatically deemed eligible. The Eligibility Letter shall not be construed as Oil and Gas Permit or an authorization to conduct any Oil and Gas Operations.

c. Notwithstanding the eligibility of a site, an application for an Oil and Gas Permit shall not be accepted if the proposed location is not currently zoned for Oil and Gas Operations unless a zoning application is concurrently submitted, or is currently pending, that would allow Oil and Gas Operations at the proposed location.

d. Confidentiality. To the extent permitted by law, information submitted to the City by an applicant in support of the Initial Assessment Process and site eligibility determination may be deemed confidential by the applicant provided that the public release of such information has the potential to negatively impact the applicant's business activities, including the applicant's negotiating position with surface use owners. If the applicant designates any information as confidential, the information may not be released by the City unless required by law. The applicant shall be solely responsible for the protection of its information and shall indemnify the City for any attorneys' fees and costs, and any award thereof, incurred in the defense of the applicant's assertion of confidentiality.

e. Materials submitted for review as part of the Initial Assessment Process and site eligibility determination shall not constitute an application for development for purposes of C.R.S. §24-68-101 et. seq. Any opinions expressed during the Initial Assessment Process and site eligibility determination are informational only and do not represent a commitment on behalf of the city regarding the

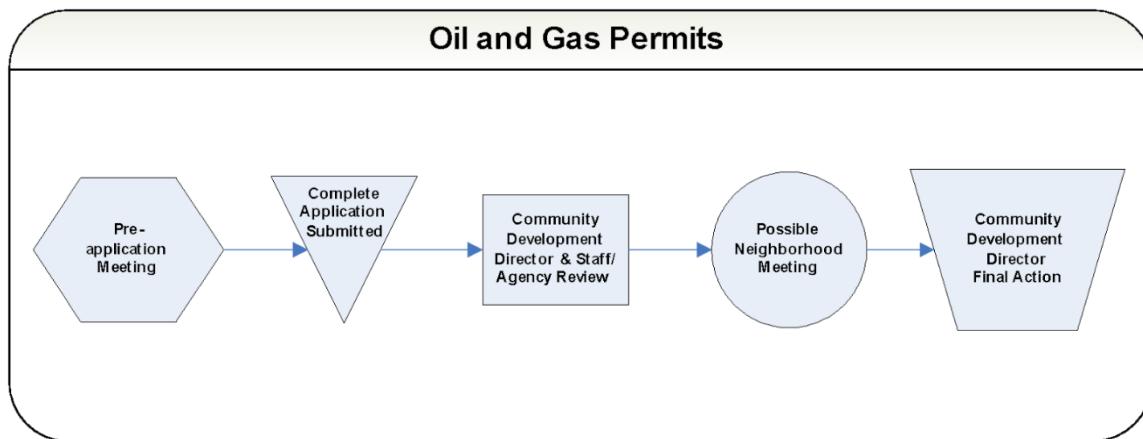
acceptability or approval of the development proposal, except the eligibility of a site for application.

6. Extraction Agreement. No Extraction Agreement shall be approved by the City before the closure of the public comment period on any pending, related Oil and Gas Permit Application to put forward site-specific conditions necessary to protect health, safety, and general welfare. The Extraction Agreement will not be finalized until after the public comment period has closed.

7. Review.

- a. Except where public hearings are required pursuant to this section, the Director and DRT review applications for Oil and Gas Permits and the Director is authorized to approve, approve with conditions, or deny such applications based upon the approval criteria outlined below (for purposes of this section, this process shall be referred to as an administrative approval). In the event the Director denies the application, the applicant may request that the permit be reviewed through the public hearing process.
- b. Public hearings before the Planning Commission and the City Council shall be required if: the proposed site location would require an alternative site location analysis under section 21-3216(5)(b), above; a public hearing process is requested by the Operator after the denial of an application by the director; or is otherwise required by this code.
- c. When public hearings are required by this section, the review process shall be as follows:
 - i. The Director and DRT will review the application and the Director will provide a report to the Planning Commission.
 - ii. The Planning Commission will hold a public hearing on the application and make a recommendation to the City Council based on the approval criteria below.
 - iii. The City Council will consider the application, the director's report, the Planning Commission's recommendation, and any other testimony at a public hearing and after the hearing, shall approve, approve with conditions, or deny the proposed plat, based on the approval criteria below.

Figure III-6. Oil and Gas Permits



8. Approval Criteria. An Oil and Gas Permit may be approved if all of the following criteria are met:

- a. The Operator has submitted the appropriate and complete application form and submitted the required fees (except those payable upon the issuance of a permit) to the City;
- b. The proposed location has been deemed eligible pursuant to section 21-3216(5);
- c. The proposed operation conforms with any Regional Operator Agreement and any site-specific Extraction Agreement between the operator and the city;
- d. The characteristics of the site are suitable for the proposed facility considering size, shape, location, topography, existence of improvements and natural features;
- e. The proposed operations and facility will not result in substantial or undue adverse impacts or effects (during any phase of operation or during any potential operational, environmental, or meteorological condition) on public health, safety, welfare, or the environment; adjacent property; occupied structures within 2,500' of the proposed facility; the character of the neighborhood; and traffic conditions;
- f. The proposed facility will be adequately served by and will not impose an undue burden on existing public and private improvements, facilities, and services of the city or its residents, either as such improvements, facilities, and services presently exist or as they may exist in the future as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the City. Where any improvements, facilities, utilities or services

are not available or are not adequate to service the proposed use in the proposed location, the applicant shall, as a part of the application and as a condition of approval, be required to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;

- g. Any adverse impacts, effects, and burdens have been or will be mitigated to the maximum extent feasible;
- h. The Operator has entered into a site-specific Extraction Agreement, approved by the Director, if required by the City to establish site-specific protections and public improvements not addressed in the BMP Document, this code, or state law or regulation but necessitated by the proposed operation to address matters of public health, welfare, and safety;
- i. The proposed facility is consistent with any applicable zoning ordinance, subdivision plat, and other plans or land use approvals applicable to the site;
- j. The proposed facility complies with all regulations and standards of the BMP Document adopted by the City Council, as such may be amended;
- k. The City has approved all plans required by Section 21-5266;
- l. The proposed operation will meet the requirements for Subsurface Extraction as set forth in Section 21-5266; and
- m. The proposed Oil and Gas Operation will not violate any standards or conditions for Subsurface Extraction, and will comply with all plans approved by the City, as set forth in Section 21-5266 and any other applicable City, state, or federal standards or laws.

9. General Terms of Approval. The following General Terms and Conditions shall apply to any Oil and Gas Permit.

- a. The granting of an Oil and Gas Permit shall not relieve the Operator from complying with all applicable regulatory requirements of the City, the state of Colorado, or the United States.
- b. The Oil and Gas Permit and existing use site plan required by this Code is in addition to any permit that may be required by any other provision of this Code, or by any other governmental agency.

- c. The Operator shall obtain and maintain a general business license prior to commencing operations and conform to applicable provisions of the Commerce City Revised Municipal Code related to licensing.
- d. The Operator shall obtain building permits prior to the construction of any above-ground structures to the extent required by the City building and fire codes.
- e. By accepting an Oil and Gas Permit, the Operator expressly stipulates and agrees to be bound by and comply with the provisions of this Code and any subsequent amendments thereto as set forth therein.

10. Permit Period; Lapse; Forfeiture.

- a. The term of the Oil and Gas Permit shall be for three years except as otherwise stated herein. Upon issuance of any state permit issued by the COGCC allowing Operations on the Site that is the subject of the City's permit, the term of the Oil and Gas Permit shall automatically become coterminous with the COGCC issued permit unless the Oil and Gas Permit has otherwise expired, lapsed, revoked, forfeited, abandoned, or otherwise terminated.
- b. The Oil and Gas Permit shall expire upon abandonment and reclamation of the permitted Operation, unless otherwise expired, lapsed, revoked, forfeited, abandoned, or otherwise terminated.
- c. Time for Drilling and Forfeiture.
 - 1. Upon issuance of an Oil and Gas Permit, and notwithstanding any other provision in this Code, the total number of wells approved in the Oil & Gas Permit must be drilled and completed within three (3) years of permit approval. Failure to do so shall constitute the forfeiture of the authorization and right to drill any undrilled wells. Authority to drill forfeited wells can only be obtained upon the amendment the existing Oil & Gas Permit or issuance of a new Oil & Gas Permit.
 - 2. At least three months prior to forfeiture, an Operator may seek relief from forfeiture if, upon application to the Director, the Director finds by clear and convincing evidence that drilling and completions were delayed due only to state or local permitting requirements. In such case, the Director may authorize a one-time extension of the drilling and completion deadline by up to one year.

- d. If construction of a structure is required, an Oil and Gas Permit shall lapse unless a City building permit has been issued and construction diligently pursued within two (2) years of approval or at such alternative time specified in the approval. In the event no new structure is required for the operation, the Oil and Gas Permit shall lapse if the Operation is not commenced within 180 days of the approval. In addition, an Oil and Gas Permit shall automatically lapse and have no further effect if the use is discontinued for 180-consecutive days.

11. Permit Exceptions.

- a. Operations not in conformance with this Code as of July 7, 2012, or that are in existence and are located within territory that is thereafter annexed to the City, may continue without the issuance of an Oil and Gas Permit until the Operation is expanded, new wells are drilled, or a permit is issued by the COGCC that allows further or additional Operations or modifications to existing Operations. The right to operate any non-conforming Operations terminates if the use thereof is discontinued for six (6) months or more.
- b. Any renovation, replacement or repair of nonconforming Oil and Gas Facilities shall be allowed without an Oil and Gas Permit, provided such work does not increase the degree of nonconformity. The replacement or addition of individual conforming tanks, treaters, or separators shall not require the remaining equipment or systems at an Oil and Gas Facility to conform to the development standards in this Section.

12. Best Management Practices Document.

- a. The City Council may adopt additional standards, protections, and specifications through a series of Best Management Practices (“BMP Document”), adopted by the City Council by ordinance, that shall apply to all Oil and Gas Operations within the City. All Oil and Gas Permit holders shall at all times comply with the BMP Document, as it may be amended.
- b. The City Manager or designee shall be responsible for the administration and enforcement of the BMP Document. The BMP Document shall be enforceable in the same manner as the provisions of this code.
- c. On an annual basis, or as may be otherwise necessary from time to time, and in response to, without limitation, new federal and state laws and regulations, scientific studies, or emerging technologies or

changes in industry standards or practices, the City Manager or designee shall recommend modifications to the BMP Document to be reviewed by City Council and amended in a manner consistent with the City Charter for the adoption of ordinances and shall be effective as provided by the City Charter.

13. Regional Operator Agreement.

- a. The Director may negotiate and execute, consistent with the provisions of the Commerce City Charter and the Commerce City Revised Municipal Code, a Regional Operator Agreement to establish terms and conditions for the protection of the public health, safety, and welfare and the environment with any Operator who has submitted an application for an Oil and Gas permit under this Code or an application for a permit issued under the authority of the Colorado Oil and Gas Conservation Commission regarding oil and gas operations in the city.
- b. A Regional Operator Agreement may include, among other things, best management practices applicable to all current and proposed Operations of the Operator within the City.
- c. A Regional Operator Agreement shall not waive or exempt the Operator from any applicable law, regulation, or standard, including any requirement of the Commerce City Revised Municipal Code, unless such variance is specifically authorized by law, regulation, or standard in question.
- d. No Regional Operator Agreement shall grant or be deemed to grant vested rights to any Operator or authorize any activity regulated by the city except pursuant to applicable permitting requirements.
- e. A Regional Operator Agreement shall be in addition to, and shall not replace, the requirement of a site-specific Extraction Agreement required for each Oil and Gas Permit.
- f. The Director may seek input from the City Council regarding the negotiation and terms of any Regional Operator Agreement.
- g. No Regional Operator Agreement may be finalized and executed before the draft agreement has been made available to the public for inspection and written comment for a period of no less than twenty-one (21) days. Following such period of public comment, the Director may incorporate modifications to such draft without the requirement of further public comment unless requested by the Operator, the Director, or the City Council.

14. Assignment of Permits. An Oil and Gas Permit may be assigned to another Operator only with the written consent of the City upon the Director's reasonable determination that the new Operator can and will comply with all requirements, terms and conditions of the Code, the Oil and Gas Permit and any Regional Operator Agreement and all applicable state, local and federal laws, rules and regulations.

15. Permit not to run with the land. An Oil and Gas Permit is not attached to and does not run with the land for which it is granted.

Section added by Ord. 1891, August 2012

Section amended by Ord. 2183, November 2018

Sec. 21-5266. Subsurface Extraction

(1) Purpose. This Section is enacted pursuant to the home rule authority, land use authority, and the police powers of the City and to protect and promote health, safety, welfare, and the environment.

(2) Applicability.

- (a) Subject to the provisions of this section, no Oil or Gas Operations (“Operations”) shall be initiated in any manner within the City prior to issuance of an Oil and Gas Permit.
- (b) All Operations are subject to the requirements of this section, Section 21-3216, and other parts of this code directly addressing Operations. If such provisions directly conflict with any other generally applicable provisions of the Code, sections of this code directly addressing Operations shall supersede but such conflict shall not alleviate an Operator from obtaining any required permits or approvals.

(3) Application Requirements. An application for an Oil and Gas Permit shall include the following:

- (a) City application form and applicable, non-refundable application fee and all other applicable fees, excluding those payable at the time of permit issuance, unless not otherwise due at the time of application;
- (b) An Eligibility Letter from the City confirming the site proposed in the application is a qualified as eligible;
- (c) Information sufficient to determine compliance with the BMP Document;
- (d) A legal description of the property to be used for the Operation;
- (e) Evidence of legal authority to use the proposed location for the proposed Operations;
- (f) List of all permits or approvals obtained or to be obtained from local, state, or federal agencies, including any exceptions or variances that are required;
- (g) Operator/applicant name(s), telephone number(s), address(es), and if possible, email address(es); if the Operator is a corporation, the state of incorporation, and if the Operator is a partnership, the names and addresses of the general partners;

- (h) Name of representative with supervisory authority over the proposed Operation and a twenty-four-hour phone number;
- (i) Location and description of all improvements, including water wells, and habitable structures, all utility easements and rights of way of record, and all existing irrigation and drainage ditches within 1500' of the proposed Operation;
- (j) Owner and address of each parcel of property within 2500' of the proposed Operation;
- (k) The location of existing sensitive wildlife habitats, nature areas, or open space within 1500' of the well site or Production Site, if any;
- (l) A Site Plan for the proposed Operation showing the location of all improvements and drilling equipment, including, but not limited to, the location of the proposed well(s) and other facilities, tanks, pipelines, compressors, separators, and storage tanks, including the number of the potential maximum number of wells to be drilled and associated drilling equipment;
- (m) A Water Plan describing the water sources to be used for the Operations and the proposed method of delivery;
- (n) Evidence of insurance and security requirements under this section;
- (o) A notarized statement, under oath, signed by the Operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the Operator or designated representative, true and correct;
- (p) A Schedule of Operations showing estimated project schedule that may vary for all phases, including “construction phase” (including pipeline construction), “drilling phase,” “completion phase” (broken down into activity-based components including flowback), and “production phase” (including estimated timelines for interim reclamation and landscaping);
- (q) An Electrification Plan identifying all sources of electricity that will be brought to or used at the Well Site during all phases, including drilling, completion and production;
- (r) A Noise Management Plan to manage noise at or below the levels indicated in the BMP document. The plan must include a baseline noise study as well as noise modeling of equipment proposed for the site for drilling and completions;

- (s) A Traffic Control Plan showing public and private roads that traverse or provide access to the proposed operation and a plan showing the estimated number of vehicle trips per day for each type of vehicle, proposed haul routes to and from the site, and measures to mitigate adverse impacts to traffic patterns and safety caused by the proposed operation. The traffic control plan shall provide this information for each phase of Operations;
- (t) A Traffic Impact Study, prepared by a vendor selected by Operator from a City-approved list of vendors, which shall clearly identify and distinguish impacts to City roads and bridges related to Facility construction, Operations and ongoing new traffic generation. Traffic impact studies shall be prepared in accordance with City standards and requirements. The study shall include a traffic mitigation plan addressing transportation impacts that will typically include, but not be limited to, a plan for traffic control, the receipt of all necessary permits, ongoing roadway maintenance and improving or reconstructing City roads, including providing financial assurance;
- (u) An Air Quality Mitigation Plan showing a modeling assessment of air quality impacts and a plan and schedule to maintain air quality, including a plan to minimize VOC emissions in compliance with the BMP Document;
- (v) A Dust Mitigation Plan to control dust and minimize visible dust emissions from roadways or from completion Operations;
- (w) An Emergency Response Plan as detailed in the BMP Document. In preparation of the Emergency Response Plan, Operator shall engage with emergency responders and prepare a plan that includes, without limitation, documentation of the communications and coordination with the City and nearby schools related to evacuation of the nearby schools and all persons residing within a one-half (1/2) mile radius from the edge of disturbance. The Emergency Response Plan must detail all criteria for persons to be notified in the event of an emergency and training for first responders;
- (x) A Will-Serve Letter from the applicable fire district(s), stating that the Operator has agreed to provide adequate emergency response equipment, any necessary training, or fee-in-lieu satisfactory to the district, to adequately respond to potential events that may result from Operations;

- (y) A Resource Mobilization/Cache Plan to ensure emergency responders have available the equipment necessary to respond to any emergency identified in the emergency response plan and such plan shall provide that the equipment be stationed in locations as to be readily available for any oil and gas emergency within Commerce City;
- (z) A Waste Management Plan that identifies the projected waste from the site and plans for disposal of such waste;
- (aa) A Hazardous Materials Management Plan that identifies all hazardous materials that will be brought on site, how they will be transported and used, and measures to prevent any release of those materials;
- (bb) A Temporary Sanitary Facilities Plan describing the sanitary facilities that will be provided for persons present at the Well Site;
- (cc) A Water Quality Monitoring Plan describing water quality monitoring practices as required by the BMP Document;
- (dd) A Spill Prevention, Control, and Countermeasure Plan describing spill prevention and mitigation practices as required by the BMP document;
- (ee) A Stormwater Pollution Prevention and Erosion Control Plan to minimize impacts to surface waters from erosion, sediment, and other sources of non-point pollution. The stormwater control plan required by COGCC Rule 1002(f) may be provided to establish compliance with this provision;
- (ff) A Wetlands Protection Plan, if any part of a proposed Operation abuts or is adjacent to or may affect or impact a wetland, demonstrating that the Operations shall not cause degradation to wetlands within the City;
- (gg) A Visual Mitigation Plan demonstrating how the proposed Operation will blend into the surrounding landscape, including consideration of fencing materials, berming, and use of existing vegetation, and natural contours to the maximum extent practicable. The Visual Mitigation Plan shall require photographic simulations of the Oil and Gas Well Site that include proposed impact mitigation measures as indicated in “Visual Mitigation Measures,” below;

- (hh) A Landscaping Plan to supplement the Visual Mitigation Plan with the use of drought tolerant species that are native and less desirable to wildlife and suitable for the climate and soil conditions of the area. An irrigation plan may be required where buffering is accomplished with vegetation. Depending on access to water, the Landscaping Plan may be staged to accommodate surface development;
- (ii) An Interim Reclamation Plan, including a written description of the species, character and density of existing vegetation on the Well Site, a summary of the potential impacts to vegetation as a result of the proposed Operations, and proposed replanting and mitigation to address these impacts. The plan shall be consistent with the BMP Document. The plan shall include any COGCC-required interim reclamation procedures and shall include the means by which vegetation will be watered and maintained;
- (jj) An Existing Vegetation Analysis of the existing vegetation at the Well Site to establish a baseline for re-vegetation upon abandonment of the Facility or upon final reclamation of the Well Site;
- (kk) A Weed Control Plan to comply with City requirements for the control of noxious and other weeds. Well Sites shall be considered developed property for the purposes of the control of weeds;
- (ll) A Lighting Plan consistent with the requirements of this code and the BMP Document if there is to be lighting onsite during Operations;
- (mm) A Site Security Plan for each Well Site, including a requirement to review the plan annually and when requested by the City and to update the plan as needed or required by the City;
- (nn) A Risk Management Plan consistent with the BMP Document;
- (oo) A Wildlife Mitigation Plan for surface Operations that will be located within or adjacent to a sensitive wildlife habitat or open space; and
- (pp) Any other information that the City deems necessary for consideration of an Oil and Gas Permit application, which information may be requested after an application is submitted.

(4) **Third Party Technical Review.** The City may require third-party consultants to participate on behalf of the City in the Initial Assessment Process, to review any submittals or applications to the City, and to advise on other processes deemed by the City to be appropriate and necessary. Reasonable costs associated with such reviews, including third-party consultant fees, shall be paid by the Operator. The Director may require the Operator to deposit funds with the City prior to the execution of such services based on a reasonable estimate provided to the Director from the independent expert or consultant until a final cost is determined. Fees shall be paid from the Operator's deposited funds. Funds not expended shall be refunded to the Operator at the conclusion of the review

(5) **General Standards.** All Operators and their agents, employees, licensees, and contractors shall:

- (a) Comply with all local, state, and federal laws and regulations;
- (b) Comply with the BMP Document and any Regional Operator Agreement or Extraction Agreement with the City.
- (c) Comply with all required plans submitted and approved by the City as part of the Oil and Gas Permit application and any conditions of approval placed on the permit by the City.

(6) **Setbacks and Floodplain Restriction.**

- (a) No Oil and Gas Production Site may be located less than 1000' from the following:
 - (i) Any existing residential or platted residential property,
 - (ii) Any building classified as a High Occupancy Building Unit, as defined by the COGCC;
 - (iii) Any Public Park or public recreation facility, not including trails or city designated open space;
 - (iv) Outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar place of outdoor public assembly; or
 - (v) Senior living or assisted living facilities;
- (b) No Oil and Gas Production Site may be located less than 500' from the following:
 - (i) Public Water Supply Wells; and

- (ii) Reservoirs.
- (c) No Oil and Gas Facilities may be located in the Floodplain.
- (d) Measurements shall be taken from the edge of the proposed Production Site to the parcel boundary. For agricultural properties with residential uses, the measurement shall be taken from the nearest edge of any occupied dwelling unit.

(7) **Site Development Standards.** The following standards shall apply to all Well Sites, in addition to any requirements of the BMP Document and other generally applicable provisions of this code except to the extent of any direct conflict.

- (a) Visual Mitigation. Visual mitigation will be site specific. The Director may approve a Visual Mitigation Plan that is consistent with the BMP Document that allows the location to blend into the landscape or appear compatible with adjacent existing and reasonably anticipated land uses. Staff may consider surface owner preferences. Oil and gas development near planned residential or commercial development may require a staged Visual Mitigation Plan.
- (b) Fencing. Above-ground Operations shall be fenced and gated as part of the Visual Mitigation Plan and Security Plan. Fencing shall be eight-foot (8') high, wrought iron fencing, Ameristar Impasse, Stronghold fencing, or equivalent as approved in the Visual Mitigation Plan. The fencing color shall be black unless the Director approves an alternative fencing color.
- (c) Landscaping.
 - (i) Landscaping will be site specific. The Director may approve a Landscaping Plan that achieves one or more of the following objectives: to obfuscate the Well Site from public view; to blend the Well Site into the surrounding landscape; to reinforce or extend any existing pattern of natural vegetation; or to create visual enhancement. The Landscaping Plan shall be coordinated with the City, depending on access to water, may be staged to accommodate surface development.

- (ii) All plant materials shall be maintained in a healthy growing condition at all times. The Operator is responsible for the regular weeding, mowing, fertilizing, pruning and other maintenance of all plant materials as needed. Adequate irrigation of plant materials (excluding existing vegetation) shall be provided by the Operator.
- (d) Lighting. To the maximum extent practicable, exterior lighting shall be downcast to reduce spill-over to adjacent properties and directed away from residential and other sensitive areas or shielded from said areas to eliminate glare. All permanent lighting fixtures installed at the Operations shall comply with the lighting standards of this Code and the BMP Document.
- (e) Signs and Markers. The Operator shall mark each and every Oil and Gas Well as required in the BMP Document.

(8) Environmental Standards.

- (a) Wildlife Mitigation.
 - (i) General. When Operations will be located within or adjacent to a sensitive wildlife area or city designated open space, the Operator shall consult with the Colorado Parks and Wildlife to obtain recommendations for appropriate site-specific and cumulative impact mitigation procedures. The Operator shall implement such mitigation procedures as are recommended by the Colorado Parks and Wildlife after consultation with the City. When Operations are adjacent to or within a federal wildlife or natural area, the Operator shall consult with the relevant federal authority to satisfy any applicable federal rules or regulations relevant to Operations. In all such instances, the Operator shall file a mitigation plan with the City.
 - (ii) Endangered Species. The Operator shall not engage in activities that, in the opinion of the Colorado Parks and Wildlife, or other relevant federal authority, threaten endangered species.
- (b) General Waste Management.
 - (i) The Operator shall at all times keep all aspects of an Operation, including roads and rights-of-way, safe and in good order and free and clear of noxious weeds, litter and debris.

(ii) Disposal of any water or any equipment, litter, sewage, waste, trash, chemicals or debris shall be at an approved disposal site.

(c) Sanitary Regulations.

(i) The Operator shall provide proper health and sanitation facilities for its employees and subcontractors.

(ii) The Operator shall fully comply with all applicable rules and regulations of the county and state health departments or other similar body.

(iii) The Operator shall at all times provide at the Oil and Gas Well Site a sufficient supply of safe drinking water for its employees and shall give orders against the use of water known or believed to be unsafe.

(iv) During extended construction and maintenance Operations, the Operator shall, at convenient places within the Oil and Gas Well Site, provide fly-proof outside toilets, which shall be maintained in a sanitary condition. Toilets shall not be permitted in any water reservoir area and shall not be permitted where they may pollute a water supply.

(d) Drainage and Stormwater Management.

(i) Drainage. Operations shall comply with all applicable state and local drainage requirements and standards.

(ii) Stormwater Management. All stormwater management shall comply with state and local requirements and standards.

(9) Nuisance Standards.

(a) Odor/Dust Containment. Operations shall be conducted in such a manner that odors and dust do not constitute a nuisance or hazard to public health, safety, welfare and the environment. All Operations shall use the best available technologies that are technically and economically practicable to control odor and dust. If deemed necessary and reasonable, the City may require additional mitigation efforts at any point during Operations.

(b) Noise Impacts.

- (i) Operations shall be conducted in such a manner that noise does not constitute a nuisance or hazard to public health, safety, welfare and the environment. All Operations shall use the best available technologies that are technically and economically practicable to control noise. If deemed necessary and reasonable, the City may require additional mitigation efforts at any point during Operations.
- (ii) The Operator shall comply with all provisions of COGCC Rule 802 on Noise Abatement, as may be amended from time to time. The maximum permissible noise levels to be applied under Rule 802 shall be, other than during pad construction at the Well Sites, the greater of: (i) the levels set forth for the land use type of “Residential/Agricultural/Rural” under Rule 802 if measurements are taken at 1,000 ft. from the sound walls at the Well Site; or (ii) 4 dB(A) higher than baseline ambient sound measured at 1,000 ft. from the sound walls at the Well Site. During pad construction at the Well Sites, noise levels shall not exceed those produced by the construction of a typical residential or commercial development.
- (iii) Operators may be required to provide for additional noise mitigation as described in the BMP Document.

(10) Traffic Standards.

- (a) If public road improvements are necessary to accommodate an Operation, and before work will be permitted within any City right-of-way, the Operator shall draft engineered drawings to be prepared by a Colorado licensed civil engineer, in conformance with City standards, for review and approval by the City. Financial assurances shall be required when any Operation requires the construction or reconstruction of public or private roads.
- (b) Maintenance. If Operations or other activities cause any City roadway to become substandard, the City may require the Operator to provide ongoing repair and maintenance of the roadway at the Operator's cost. Such maintenance may include dust control measures and roadway improvements such as graveling, shouldering, and/or paving as determined in the Traffic Impact Study.
- (c) Oil and Gas Well Site Access. Access to any property from a City street requires a City-issued access permit. Access Permits are revocable upon issuance of a stop work order or if other Oil and Gas Permit violations occur. The permitting and construction of accesses shall comply with the City's Engineering Construction Standards and Specifications and design standards.

- (d) Private Access Roads. All private roads used to access or conduct Operations shall be constructed in compliance with the BMP Document. The Operator shall comply with City standards regarding vehicle tracking and dust mitigation.
- (e) State Highway Access. Where a Site's access is directly to a state highway, the Operator must procure and maintain an approved State Highway Access Permit.
- (f) Access Roads.
 - (i) Tank Battery Access Roads. Access roads to tank batteries shall be, at a minimum, a graded gravel roadway at least twenty feet (20') wide with a minimum unobstructed overhead clearance of thirteen feet six inches (13' 6") and a minimum thickness to be approved by the City Engineer.
 - (ii) Wellhead Access Roads. Access roads to wellheads shall be, at a minimum, a graded gravel roadway at least twenty feet (20') wide with a minimum unobstructed overhead clearance of thirteen feet six inches (13' 6"), and a minimum thickness to be approved by the City Engineer.
 - (iii) Pavement Standards. To protect public streets, sidewalks, and curbs and gutters, all tank battery and wellhead access roads that intersect a paved City street or alley shall be paved to standards determined by the City Engineer. The access location shall comply with all City requirements.
- (g) Haul Routes. Operators shall only use roadways for haul routes that are identified on a City-approved traffic control plan.
- (h) Oversize/Overweight Vehicles. Any oversize or overweight vehicle making use of any City street shall obtain an Oversized, Overweight and Longer Vehicle Combination Permit from the City's Department of Public Works prior to any such use.
- (i) Indemnification. No public improvements, such as curbs, gutters, pavement or sewer lines, etc., shall be damaged by vehicles entering or leaving the location. In the event of damage, the Operator shall indemnify the City for any repair costs.

(11) Prohibition. The following facilities are prohibited within the City:

- (a) Injection Wells for disposal of oil and gas Exploration and Production Wastes;
- (b) Gas Storage Wells;

- (c) Disposal pits;
- (d) Commercial disposal facilities;
- (e) Centralized Exploration and Production Waste management facilities; and
- (f) Subsurface disposal facilities.

(12) Air Quality Standards and Monitoring.

- (a) Operator must eliminate, capture, or minimize all potentially harmful emissions, including Volatile Organic Compounds (VOC's) and BTEX through compliance with these provisions and the BMP Document.
- (b) Operator shall minimize dust associated with onsite activities and traffic on access roads pursuant to the terms as identified herein.
- (c) Operator shall comply with all applicable state and federal regulations including regulations promulgated by CDPHE, COGCC and US EPA.
- (d) The Operator, at a minimum, shall conduct on site air quality sampling and monitoring of emissions at each well site that may be reasonably associated with oil and gas production or related Operations, including any volatile organic compounds, Hazardous Air Pollutants as defined by the EPA, and other greenhouse gas emissions. Such sampling and monitoring shall be compliant with the following requirements:
 - (e) Baseline sampling conducted over a 90 day period to commence no sooner than within 6 (six) months prior to well site construction;
 - (f) Continuous sampling during the drilling and completions phase;
 - (g) Continuous monitoring for the lifetime of each wellsite; and
 - (h) Real-time reporting of air quality data to the City.
 - (i) The Operator shall reimburse the City for all additional air quality sampling or monitoring as deemed reasonably necessary by the City in response to a reportable safety event, as defined by COGCC Rule 602(c), a spill, release, or a reported and substantiated nuisance that occurs outside of drilling and completion Operations. Such costs will be payable within one month of invoicing.

(13) Abandonment and Plugging.

- (a) The Operator shall comply with all COGCC rules in relation to abandonment and plugging.
- (b) For new Oil and Gas Facilities, the Operator shall be required to plug and abandon all existing vertical wells owned or controlled by the Operator within a proposed drilling and spacing unit (DSU) that target the same formation as any proposed horizontal wells.
- (c) Operators of wells that are to be plugged and abandoned shall notify both the City's Local Government Designee (LGD) and the applicable fire district not less than one week prior to commencing plugging operations.
- (d) Operators shall remove all Flowlines and unused Gathering Lines associated with a plugged and abandoned well. The city may grant an exception to allow a Flowline to be abandoned in place, where the removal of such Flowline would constitute a significant hazard to public health, welfare, safety, and the environment.
- (e) Operators shall provide copies of all COGCC plugging and abandonment reports to the City concurrent with filing the reports with the COGCC.
- (f) It shall be unlawful for any Operator or other person to reactivate a plugged or abandoned Oil and Gas Well unless a new Oil and Gas Permit has first been issued by the City. The recompleting or reworking of an Oil and Gas Well and relocation of accessory equipment or gathering and transmission lines will be permitted if all applicable State applications are obtained.

(14) Fees. This fees identified in this subsection shall apply in addition to any other applicable fees. All fees shall be paid at the time an Oil and Gas Permit is issued.

- (a) Oil and Gas Transportation Impact Fee. The Operator shall pay an Oil and Gas Transportation Impact Fee, pursuant to Section 21-9260.
- (b) Inspection fees. The applicant shall provide reimbursement to the city for the full cost necessary to inspect any Well Site. Upon completion of an inspection, the applicant shall receive an invoice for the cost of such inspection.

(15) Financial Assurances and Insurance.

- (a) Operator shall provide all necessary insurance as set forth in the BMP document.
- (b) Surety for Financial Setback.
 - (i) Prior to the commencement of any work, including Well Pad construction at any permitted Well Site, the Operator shall provide the City with a single surety in the form of a letter of credit or bond in the amount of five hundred thousand dollars (\$500,000.00) per well site to insure the immediate availability of finances for any costs incurred by the City following a Financial Setback of the Operator. Financial Setback shall be defined as the Operator filing for protection under the bankruptcy laws, making an for the benefit of creditors, appointing or suffering appointment of a receiver or trustee over its property, filing a petition under any bankruptcy or insolvency act or having any such petition filed against it which is not discharged within ninety (90) days of the filing thereof.
 - (ii) Operator shall notify the City of the existence of a Financial Setback with five (5) business days of the Financial Setback. Upon the occurrence of a Financial Setback, the City may call upon the surety effective immediately upon written notice to the Operator for purposes associated with the need to secure the well sites associated well site lands and infrastructure, or in response to a demonstrated need to protect the public welfare and safety. The City shall not be liable to the Operator or any surety, guarantor, or financial institution for consequential damages arising from the City's exercise of its rights under this section, including without limitation a claim for impairment of bonding capacity.
 - (iii) The letter of credit or bond shall remain in effect until all drilling operations have been completed and the entire well site is in the production phase, without exception. The bond or letter of credit shall be released within ten (10) business days of the City's verification of completion in response to Operator's written request for such release following completion whereby all wells at the well site have been turned to production.
 - (iv) This financial assurance provision, which shall be provided in a form accepted by the City, is not a substitute for any bonding required by the state regulatory agencies for plugging and abandoning wells. The Operator shall comply with all state regulatory agencies bonding requirements.

- (v) The bond or letter of credit shall be released within ten (10) business days of the City's verification of completion in response of Operator's written request for such release following completion whereby all wells at the well site have been turned to production.
- (c) Performance Security. To ensure compliance with mitigation and other requirements set forth in this section, the BMP document, and any permit conditions, the Operator may be required to provide reasonable performance security to the City in a form acceptable to the City.
- (d) Cost Reimbursement Agreement. The Operator shall reimburse the City, the applicable fire district, and any other emergency service provider for any emergency response costs incurred by any of them in connection with the Operations.

(16) Inspection by the City.

- (a) No person shall refuse entry to, impede, obstruct, delay, or in any manner interfere with the inspection of Oil and Gas Facilities subject to an Oil and Gas Permit or the regulations of this section or section 21-3216 by any federal, state, county, or local inspector who is either permitted or required to inspect the premises. Entry and inspection shall be permitted to all areas of the Oil and Gas Facility as defined by this code. No inspector shall be required to be escorted or accompanied during an inspection.
- (b) Any attempt to refuse entry to, impede, obstruct, delay, or in any manner interfere with a lawful inspection, or to require that an inspector be escorted or accompanied during an inspection, shall constitute grounds for revocation of an Oil and Gas Permit in addition to any other penalties permitted by the code.
- (c) The Operator shall provide the telephone number of a contact person who may be reached 24 hours a day for purposes of being notified of any proposed city inspection under this section or in case of emergency.

(17) Variances. No variances are permitted concerning Oil and Gas Permits or to otherwise facilitate the approval of an Oil and Gas Permit. All requests for non-compliance shall be addressed via the processes identified by the Code.

(18) Enforcement and Penalties.

- (a) Failure to Obtain Permits. Any Operator that fails to obtain an Oil and Gas Permit, or that fails to comply with requirements of this code, the Oil and Gas Permit, the BMP Document or any applicable Extraction Agreement, may be enjoined by the City from engaging in Operations and may be subject to such other criminal or civil liability as may be prescribed by law.
- (b) Suspension of Oil and Gas Permit. If the City determines that the Operator has violated any term or condition of this Code, the Oil and Gas Permit, the BMP Document or any applicable Extraction Agreement, or that one or more material changes to the Operations or Oil and Gas Facilities have been made without the express, written consent of the City, the Director may temporarily suspend the Oil and Gas Permit and order all Operations permitted by the City under the Oil and Gas Permit shall cease upon written notification to the Operator. In such event, the Operations shall be safely ceased as soon as possible. This suspension shall be in addition to any other enforcement mechanism available to the City.
- (c) Revocation of Oil and Gas Permit. In the manner consistent with this code, revocation of an Oil and Gas Permit may be premised upon a violation of any term or condition of this Code, any term or condition of the Oil and Gas Permit, the BMP Document, or any applicable Extraction Agreement, or if one or more material changes to the Operations or Oil and Gas Facilities have been made without the consent of the City.
- (d) COGCC Enforcement Orders.
 - (i) Within five (5) business days of the receipt of a COGCC Enforcement Order for a violation occurring in the City, the Operator shall provide the Enforcement Order to the City.
 - (ii) With submission of the Enforcement Order to the City, the Operator shall pay to the City a fine equal to that mandated by the Enforcement Order unless the Enforcement Order is subject to a pending appeal.
 - (iii) Where subject to an appeal, the Operator is excused from payment of the fine pending final disposition of the appeal. If the Enforcement Order, or any part thereof, is upheld on appeal or remand, the Operator shall pay a fine to the City equal to that mandated upon disposition of the appeal and within five (5) days of disposition. If the appeal is disposed of by means other than a final disposition by the reviewing tribunal, and unless remanded, then the Operator shall pay the fine to the City as mandated in the original Enforcement Order within five (5) days of disposal.

(19) No Permit Approval Pending Enforcement Action. No Oil and Gas Permit application or any proposed amendment to an Oil and Gas Permit application, shall be processed or approved with regard to a Well Site that is subject to an ongoing enforcement action under the code.

(20) Other Oil and Gas Operations – Seismic Operations. An Oil and Gas Permit shall not be required for seismic surveys unless the drilling of a seismic (shot hole), core or other exploratory hole is involved or unless the seismic survey is located on City property. This section shall not operate to relieve any party from the obligation to obtain a Right-of-Way Permit. The Operator may be required to provide the City with resulting data the City determines to be reasonably related to City projects or municipal water supplies and collected within 1,000' of the surface.

(21) Strict Liability.

- (a) An Operator shall be strictly liable to the City and any emergency service provider for all costs of emergency response to any Well Sites. Absent the Operator's negligence, the Operator shall not be liable for such costs caused by a third party lacking privity with the Operator. Such costs shall include, but not be limited to, those born by fire, police, and other first responders, regardless of jurisdiction, including any hazmat response and cleanup costs of any nature whatsoever.
- (b) An Operator shall be strictly liable to the City and any emergency service provider for all damages to any and all City owned or operated property and infrastructure, incurred as a result of the Operator's Operations. Nothing in this subsection shall be construed to require Operator to pay an additional amount where such damages are anticipated and accounted for through the payment of generally applicable fees or impact fees.

Section amended by Ord. 1891, August 2012

Section 21-5266 amended by Ord. 2183, November 2018

Section 21-5268, entitled Telecommunications Facilities, repealed by Ord. 2068, January 2016.

Sec. 21-6280. Additional Subdivision Standards relating to Oil & Gas Sites

Oil & Gas Site Setbacks.

- (1) For permitted Well Sites, where the maximum number of wells issued under an Oil and Gas Permit have not yet been drilled, or where all permitted wells have not entered the production phase, no new residential lots may be platted within 1,000'.
- (2) For permitted Well Sites where all permitted wells have entered the production phase or the permit has lapsed, been revoked, or forfeited, no new residential lots may be platted within the minimum setbacks set forth in Table VI-1:

Table VI-1. Setback from new residential lots to Well Sites

Well Count	Setback
1-10	300'
11-24	400'
25 or more	500'

- (1) Plat requirements. The following information shall be denoted on all final plats:
 - a. The location of any oil and gas flowlines, and any associated easements;
 - b. The location of all recorded surface use agreements; and
 - c. The location of any plugged and abandoned oil and gas wells, including a plat designation surrounding such wells and expressly prohibiting any habitable building or structure within 50 feet.
- (2) Required Notice. The final plat shall include a note stating the location of the oil and gas well(s) and associated easements.
- (3) Vacation of Existing Easements. No easement may be vacated for a previous or existing well or flowline, unless documentation is provided to the city demonstrating such well or flowline has been vacated in compliance with all applicable COGCC regulations.

ARTICLE XI. MEASUREMENTS AND DEFINITIONS

ARTICLE XI. MEASUREMENTS AND DEFINITIONS

DIVISION 1: MEASUREMENTS AND RULES FOR MEASUREMENTS

Sec. 21-11100. Rounding

Sec. 21-11105. Density

Sec. 21-11110. Lot Frontage (Lot Width)

Sec. 21-11115. Street Frontage

Sec. 21-11120. Lot Depth

Sec. 21-11125. Lot Coverage

Sec. 21-11130. Setback

Sec. 21-11135. Floor Area Ratio

Sec. 21-11140. Building Height

Sec. 21-11145. Distance or Spacing

Sec. 21-11150. Variation of Residential Dwelling Facades

DIVISION 2: DEFINITIONS

Sec. 21-11200. Definitions

DIVISION 1: MEASUREMENTS AND RULES FOR MEASUREMENTS

Sec. 21-11100. Rounding

When calculations result in a fraction, the result shall be rounded in accordance with this section.

(1) **Minimum Requirements.** When a regulation is expressed in terms of a minimum requirement, any fractional result will be rounded up to the next consecutive whole number. For example, if a minimum requirement for one street tree every 40 feet is applied to a 100-foot strip, the resulting fraction of 2.5 is rounded up to 3 required trees.

(2) **Maximum Requirements.** When a regulation is expressed in terms of maximum limits, any fractional result lower than .49 will be rounded down to the next lower whole number. For example, if a maximum height for a building is 35 feet and the building actually measures 35 feet 5 inches, then the height is in compliance. If the height measured 35 feet 6 inches, then the height limit is not in compliance.

(3) **Residential Density.** When calculating residential density, any fractional result shall be rounded up to the next consecutive whole number. For example, if a maximum limit of 15-dwelling units per acre (du/a) is applied to a 5.3-acre site, the resulting quantity of 79.5 is rounded up to 80 permitted dwelling units.

(4) **Setbacks.** Setback distances are stated as absolute values and will in no case be rounded to the next whole number.

Sec. 21-11105. Density

(1) **Net Density.** Net density shall be calculated by dividing the net acreage of a parcel by the minimum lot area required for each dwelling unit.

(2) **Gross Density.** Gross density shall be calculated by dividing the gross acreage of a parcel by the minimum lot area required for each dwelling unit.

(3) **Maximum Density Not Guaranteed.** The number of dwelling units allowed on a site is based on a presumption that all other applicable standards shall be met. The maximum density established for a zoning district is not a guarantee that such densities may be obtained, nor a valid justification for varying other dimensional or development standards.

Sec. 21-11110. Lot Frontage (Lot Width)

Lot frontage or width refers to the distance between the side lot lines as measured along a straight line parallel to the front lot line (the lot line abutting the street on which the property has its principal access) or the chord thereof. The minimum lot frontage or width shall be measured between the side lot lines along a line that is parallel to the front lot line and located the minimum front setback distance from the front lot line.

Sec. 21-11115. Street Frontage

Street frontage means the distance between the side lot lines of a property as measured from the street lot line.

Sec. 21-11120. Lot Depth

Lot depth shall be measured using the methods outlined below. If more than one of these methods is used on a lot, the method which results in the greatest distance shall be utilized. However, in calculating the lot depth on a flag lot, the depth of the lot shall not include the length of the flagpole portion of the lot.

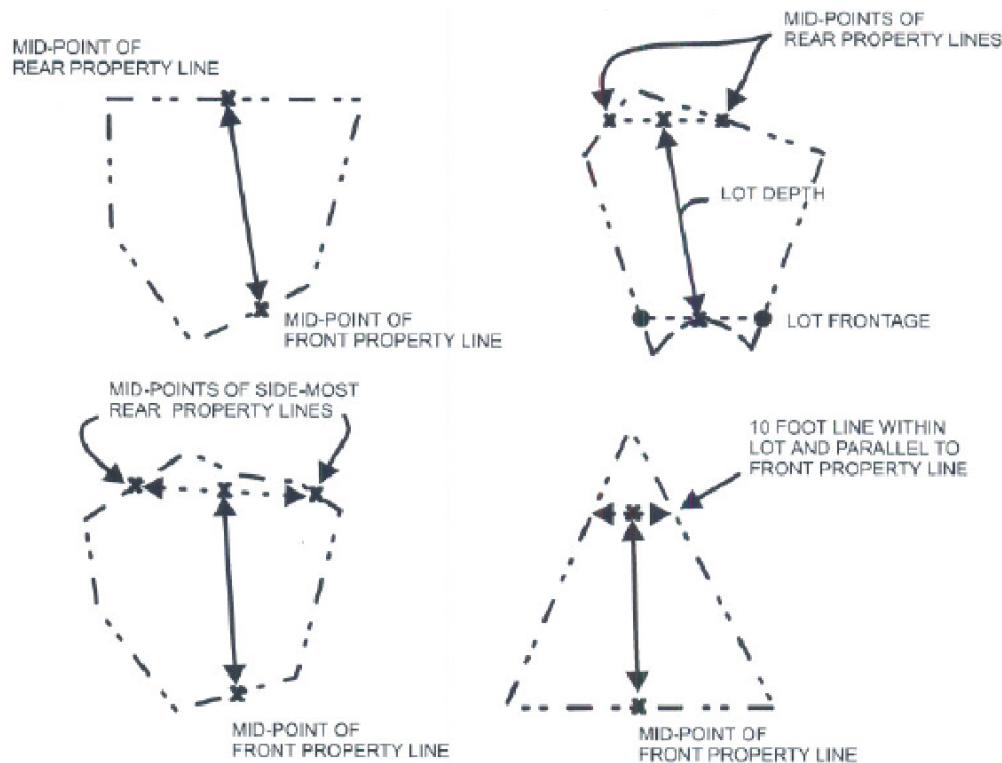
(1) The distance from the mid-point of the front property line and the mid-point of the rear property line; or

(2) When the rear property line is formed by two or more lines, the measurement shall be from the mid-point of a line formed by connecting the mid-points of the side-most rear property lines to the front property line.

(3) Where no rear property line is apparent, the rear lot line shall be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front property line.

(4) When lot depth is unable to be determined using the prescribed methods, the director shall determine the most reasonable method of calculation.

Figure XI-1. Measuring Lot Depth



Sec. 21-11125. Lot Coverage

(1) **General Rule.** Lot coverage is the percentage of the total lot area covered by buildings. It is calculated by dividing the square footage of building cover by the square footage of the lot.

$$\text{Lot Coverage} = \text{Building Area} / \text{Lot Area}$$

(2) **Areas Excluded from Calculation.** The following shall not be counted as part of the building area:

- Areas covered by swimming pools and hot tubs;
- Open decks less than 30 inches above grade; and
- Storage sheds under 120-square feet in total area.

Sec. 21-11130. Setback

A setback is measured from the lot line to the closest projection of a building or structure along such line, at a right angle to the lot line. Setbacks shall be unobstructed from the ground to the sky except as otherwise specifically allowed in this land development code.

Sec. 21-11135. Floor Area Ratio

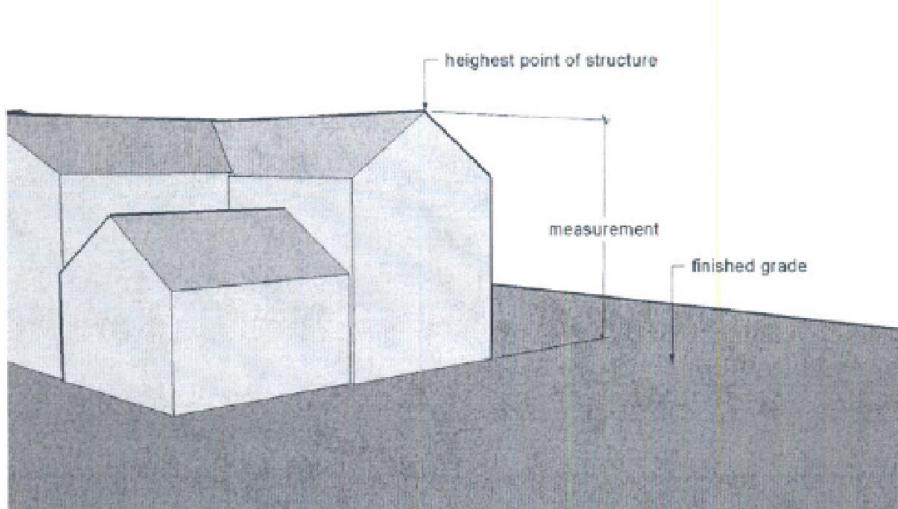
Floor Area Ratio (FAR) is the gross floor area of all buildings on a lot or parcel, divided by the lot area.

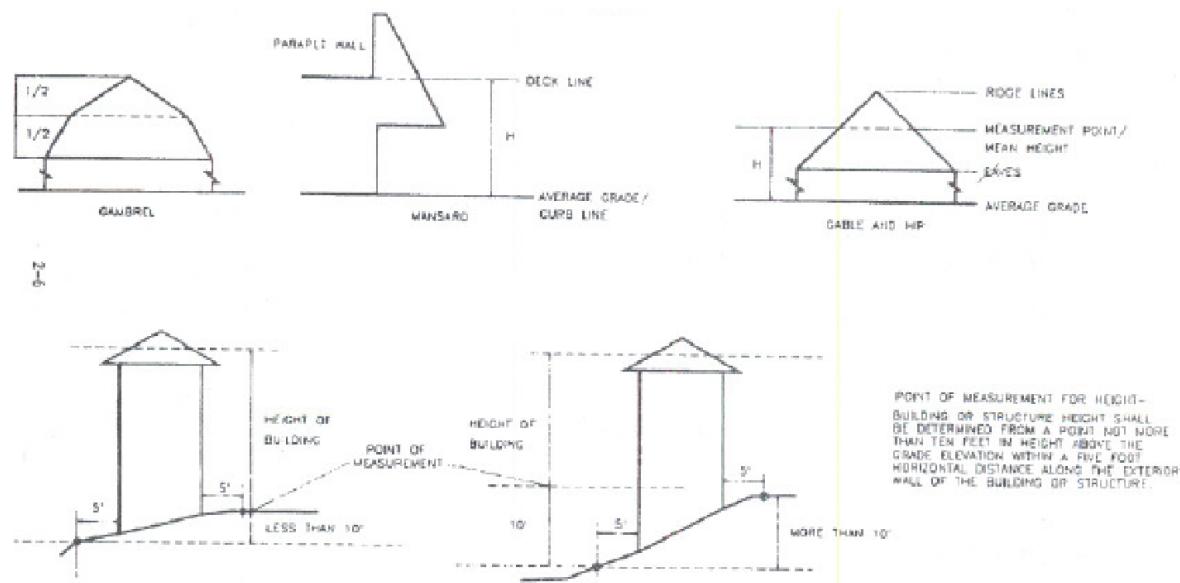
$$\text{Floor Area Ratio} = \text{Gross Floor Area} / \text{Lot Area}$$

Sec. 21-11140. Building Height

(1) **Standard Methods of Measurement.** Building height is the vertical distance between the point of measurement on the ground to the highest point of (1) coping of a flat roof; or (2) to the deck line of a mansard roof; or (3) to the average height of the highest gable of a pitched or hip roof. The point of measurement may be taken from the highest adjoining sidewalk or ground surface within a five-foot horizontal distance along the exterior wall of the building, when such sidewalk or ground surface is not more than ten feet above grade.

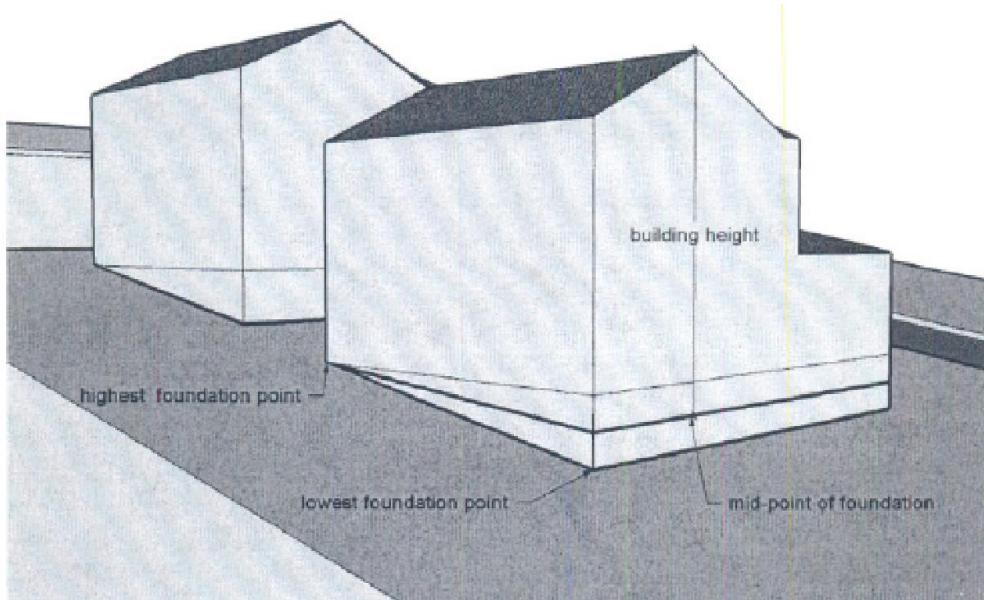
Figure XI-2. Height Measurements





(2) **Sloped Sites.** For sloped lots or buildings with varied floor elevations, the height of a building is measured as the vertical distance from the average level of the ground under the building to the allowed number of feet above and parallel to the finish grade. The average level of ground is determined by adding the elevations of the highest and lowest foundation points of the building and dividing by two (the mid-point of foundation).

Figure XI-3. Height Measurement on Sloped Sites



(3) **Exclusions from Measurement.** Chimneys, cornices without windows, cupolas, domes not used for human occupancy, elevator penthouses, monuments, parapet walls, skylights, spires, steeples, theater scenery lofts, towers, ventilators, publicly-owned water tanks, and similar structures and necessary mechanical

appurtenances covering not more than 25 percent of the roof area of the structure, may exceed the maximum permitted height in the district in which the site is located. In no case may the exclusions exceed 150 percent of the height of the principal building without a height exception granted by the board of adjustment.

Sec. 21-11145. Distance or Spacing

When a regulation requires a proposed use or activity to be located a specified distance from an existing use, zoning district boundary, or activity, such distance or spacing requirement shall be calculated by direct, straight-line measurement from the nearest property line of the property upon which an existing use, zoning boundary, or activity is located to the nearest property line of the property whereon the proposed use or activity is to be located. This measurement shall apply regardless of whether the use is located, or proposed to be located, within a structure housing a single use or multiple uses, except that the distance between automotive or truck wash facilities shall be measured along street frontage and not by a straight line distance between the two properties.

Sec. 21-11150. Variation of Residential Dwelling Facades

When the city requires that the facades of single-family homes be varied, the first and last units within that specified number may be the same. For example, a requirement to vary home facades every fourth unit shall require that the first, second, and third home facades be different, but shall permit the first and fourth home facades to be the same.

DIVISION 2: DEFINITIONS

Sec. 21-11200. Definitions

When used in this land development code, the following terms shall have the meanings ascribed to them herein, except where the context clearly indicates that a different meaning is intended or where the code contains a specific provision to the contrary:

- (1) **Access Easement** shall mean an interest in land which allows one or more persons to travel across another person's land.
- (2) **Accessory Building or Structure** shall mean a subordinate structure located on the same lot with the principal building, occupied by or devoted to an accessory use. Accessory structures include, but are not limited to, storage sheds, garages, covered porches, large satellite dishes, and telecommunication antennas.

(3) **Accessory Parking Structure** shall mean a permanent one-story structure that is open on one or more sides and is used for the temporary parking or storage of operable vehicles in conjunction with the primary use of the property.

(4) **Accessory Use** shall mean a use, located on the same lot, naturally and normally incidental to, subordinate to, and devoted exclusively to the principal use of the premises.

(5) **Active Rights-of-Way** shall mean rights-of-way currently being utilized or improved.

(6) **Addition** shall mean any activity that expands the enclosed footprint or increases the square footage of an existing structure.

(7) **Adjacent** shall mean to physically touch or border upon, or to share a common property line or border. Adjacent shall include properties or uses that are separated by a street, sidewalk, or other publicly-dedicated right-of-way, canal, or railroad right-of-way.

(8) **Administrative Appeal** is an appeal alleging an error in a final order, requirement, decision, or determination made by the director in the administration or enforcement of this land development code.

(9) **Adult** shall mean a person 18 years of age or older.

(10) **Adverse Impact** shall mean a negative consequence affecting the physical, social, or economic environment resulting from an action or project.

(11) **Agriculture or Farm** shall mean the use of land for agricultural purposes, including farming, dairying, floriculture, horticulture, pasturage, viticulture, grazing, animal and poultry husbandry, and the necessary accessory uses for packing, treating, storing, and shipping of farm products.

(12) **Alley** shall mean a service roadway that provides a means of access abutting properties and that is not intended for general traffic circulation.

(13) **Alter or Alteration** shall mean any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

(14) **Annexation** shall mean the incorporation of a land area into the city with a resulting change in the city boundaries.

(15) **Antenna** shall mean any structure or device used to retransmit or receive electromagnetic waves for the provision of services including, but not limited to, cellular, paging, personal communication services, and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave and satellite dishes, and omnidirectional antennas, such as whips. Except where the context clearly indicates otherwise, this term shall not include broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

(16) **Antenna, Dish** shall mean dish (parabolic or cylindrical) antennas used for microwave and satellite transmission and reception for commercial purposes. This definition shall not apply to wireless cable satellite dish antennas or dish antennas less than one meter in diameter or measured diagonally.

(17) **Antenna, Panel** shall mean an array of antennas, rectangular in shape, used to transmit and receive telecommunication signals.

(18) **Antenna, Whip** shall mean a single antenna that is cylindrical in shape and omnidirectional.

(19) **Apartment** shall mean a dwelling unit, located in a building containing three or more such dwelling units, used exclusively for lease or rent as a residence.

(20) **Applicant** shall mean any person who has filed an application pursuant to the provisions of this land development code.

(21) **Approved Plant List and Landscaping Specifications Document** shall mean that document containing certain information and requirements pertaining to landscaping in the city.

(22) **Appurtenances** shall mean transformers, switching boxes, gas regulator stations, terminal boxes, meter cabinets, pedestals, ducts, substations, system amplifiers, power supplies, optical nodes, pump stations, valves and valve housings, and other devices necessary to the function of underground electric, communications, cable television wiring, coaxial, fiber optic, water, sewer, natural gas, other utility lines, and street lighting circuits.

(23) **Architectural Appendage** shall mean appendages such as fireplaces, roof overhangs, balconies, cornices, and bay or box windows that are attached to principal or accessory structures.

(24) **Area of Shallow Flooding** shall mean a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and

where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(25) **Area of State Interest** shall mean an area within which a county or municipality can designate, as enabled by C.R.S. § 24-65.1-101, certain activities and establish certain standards for the regulation thereof. Said activities may be regulated by permit and include natural hazard areas, key facilities (e.g., airports, highway interchanges, etc.), and mineral resource areas.

(26) **Arterial Street** shall mean a public right-of-way used to carry high traffic volume typically for travel between areas within and outside the city. A right-of-way typically is 120 feet to 150 feet in width.

(27) **Artificial Turf** shall mean a partial or entirely synthetic material designed and manufactured to simulate living turf grass as provided in the city's Approved Plant List and Landscaping Specifications.

(28) **Arts and/or Cultural Center** shall mean a space providing for creation, display, performance, or enjoyment of heritage, history, or the arts. This use includes but is not limited to: museums, performance space, artist's studios, galleries, interpretive sites, independent theaters.

(29) **Artisan/Handcrafted Manufacturing** shall mean the shared or individual use of hand-tools, mechanical tools and electronic tools for the manufacture of finished products or parts including design, processing, fabrication, assembly, treatment, and packaging of products; as well as the incidental storage, sales and distribution of such products. Typical artisan manufacturing uses include, but are not limited to: electronic goods, food and bakery products; non-alcoholic beverages; printmaking; household appliances; leather products; jewelry and clothing/apparel; metal work; furniture; glass or ceramic production; paper manufacturing.

(30) **Asphalt Mixing Plants** shall mean an industrial establishment or plant where gravel or sand are combined with a mixture or bitumens to create a substance for paving, roofing, and waterproofing.

(31) **Assisted Living Facility** shall mean a state-licensed group living facility regulated as a personal care boarding home, as defined in C.R.S §25-27-101. Such facilities do not offer diagnosed medical or psychological treatment under professional medical supervision, but may offer (1) physical therapy; (2) occasional medical or nursing care to address non-chronic and non-recurring conditions such as colds, flu, or household injuries; and (3) assistance with routine living activities not aimed at recovery from a specific diagnosed condition.

(32) **Auction** shall mean a place where objects of art, furniture, or other goods are offered for sale to persons who bid on an object in competition with each other. For an auction to be classified as an indoor auction, all auction activities shall occur

within an enclosed building, including storage and processing of items to be auctioned.

(33) **Auditorium or Stadium** shall mean an open, partially enclosed, or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings. Typical uses include convention and exhibition halls, sports arenas, and amphitheaters.

(34) **Automobile Sales and Rental** shall mean a specific type of vehicle and equipment use or an establishment arranged, designed, or used for the display, sale, leasing, or rental of any new or used motor vehicle in operable condition.

(35) **Awning** shall mean a shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework. An awning is distinguished from a marquee in that a marquee is covered with rigid material. An awning is distinguished from a canopy in that an awning is cantilevered, whereas a canopy is supported by posts or other devices beyond the building wall.

(36) **Bail Bonds Business** shall mean a business whose primary purpose is to act as a surety to secure the presence of an accused person at a court proceeding in a criminal manner.

(37) **Bakery, Retail** shall mean a structure, room, or place used for making, preparing, or baking, bread, biscuits, pastry, cakes, doughnuts, crullers, noodles, macaroni, spaghetti, or tortillas to be sold on-premises at retail and consumed on or off premises.

(38) **Bakery, Wholesale** shall mean a structure, room, or place used for making, preparing, or baking, bread, biscuits, pastry, cakes, doughnuts, crullers, noodles, macaroni, spaghetti, or tortillas to be sold on or off-premises at wholesale and consumed off premises.

(39) **Banner** shall mean a sign made of fabric or other non-rigid material with no enclosing framework.

(40) **Bar/Tavern** shall mean an eating/drinking establishment providing or dispensing by the drink, for on-site consumption, fermented malt beverages, and/or malt, special malt, vinous or spirituous liquors, and in which the sale of food products such as sandwiches and light snacks is secondary (also known as a tavern). A bar/tavern may include provision of live entertainment and/or dancing; however, a bar/tavern shall not include any adult business use.

(41) **Base Flood** shall mean a flood having a one percent chance of being equaled or exceeded in any given year (also known as the 100-year flood).

(42) **Basement** shall mean an area below the first floor, having part, but no more than 1/2 of its height above-grade, and with a floor to ceiling height of not less than seven feet. This term shall not include garden level.

(43) **Bed and Breakfast Establishment** shall mean an owner-occupied single-family dwelling where up to a maximum of five rooms may be rented for overnight lodging. The five lodging rooms may be in addition to bedrooms used by the resident family.

(44) **Berm** shall mean in the context of landscaping or buffering requirements, a mound of earth typically used to shield, screen, and buffer undesirable views and to separate potentially incompatible land uses.

(45) **Best Management Practices (BMPs)** shall mean physical, structural or managerial practices that, when used individually or in combination, prevent or reduce pollution or stormwater runoff. As they relate to Oil and Gas Operations, BMPs are technologies and practices listed in the City's adopted Best Management Practices for Oil and Gas Facilities, *also known as the BMP Document*. BMPs are designed to prevent or reduce impacts caused by Oil and Gas Operations to air, water, soil, or biological resources, and to minimize adverse impacts to public health, safety and welfare, including the environment and wildlife resources.

(46) **Block** shall mean a tract of land bounded by streets, or by a combination of streets and railroad rights-of-way, shorelines, or boundary lines of municipalities.

(47) **Boarding, Lodging, or Rooming House** shall mean a group living facility where meals, lodging, or both, are provided for compensation for five or more persons, but not more than eight persons, not including members of the owner's or proprietor's immediate family who might be residing in the same building. The word compensation shall include compensation in money, services, or anything of value. A boarding, lodging, or rooming house shall not include more than one person required to register as a sex offender pursuant to C.R.S. § 18-3-412.5, as amended.

(48) **Borrow Pit** shall mean any place or premises where dirt, soil, sand, gravel, or other material is removed below the grade of surrounding land, for any purpose other than that necessary and incidental to site grading or building construction.

(49) **Boundary Line** shall mean every separation, natural or artificial, which marks the confines or line of division of two contiguous parcels of land.

(50) **Brewery** shall mean an establishment where malt liquors are manufactured and production exceeds 60,000 barrels of malt liquor per year, but shall not mean a "brewpub" or "microbrewery."

(51) **Brewpub** shall mean an establishment that, as an accessory use to on-site food sales, produces no more than 5,000 barrels of handcrafted beer per year for on-site consumption. Such accessory use may occupy up to 30% of the gross floor area of the establishment.

(52) **Buffering** shall mean methods such as extra deep lots, increased setbacks, landscaping, fencing, or berthing to separate properties or uses that may have potential adverse impacts upon one another.

(53) **Building** shall mean any structure used or intended for supporting or sheltering any use or occupancy including persons, animals, chattels or property of any kind, and not including advertising sign boards or fences.

(54) **Building Elevation** shall mean a projection of a building plane, including the roof, wall, and all architectural appendages.

(55) **Building Height** see section 21-11140.

(56) **Building Official** shall mean the official designated by the city as the official responsible for accepting, reviewing, approving, or rejecting plans and applications for building and occupancy permits, and for the interpretation and enforcement of codes and regulations related to such applications and permits.

(57) **Building Permit** shall mean a written permit issued by the city that allows the permit holder to undertake construction of a project.

(58) **Building, Principal** shall mean the building(s) housing the principal (primary or most important) uses permitted on the property upon which it is located.

(59) **Building Separation** shall mean the horizontal distance from one building to another building located on the same or adjacent building site or lot, excluding architectural appendages.

(60) **Bulk Grain Transfer** shall mean the direct transfer of grain from one truck or container to another via conveyor belt. No on-site storage of grain, either in piles or containers, shall occur.

(61) **Canopy** shall mean a roof-like shelter projecting from a building wall and supported by posts or other devices beyond the building wall, typically constructed of non-rigid materials on a supporting framework. A canopy is distinguished from an awning in that an awning is cantilevered and supported by the building wall, whereas a canopy is supported away from the building wall.

(62) **Carnival or Circus** shall mean a temporary amusement center, bazaar, or fair, either involving use of special purpose equipment or conducted by professional operators, or both, and where activities include such things as rides, exhibitions, food services, sales, or small-scale games.

(63) **Carport** shall mean a one-story structure that is attached to a dwelling unit and entirely open on one or more sides that is used by the legal occupant of the dwelling unit for parking or storing operable vehicles.

(64) **Car Wash** means an establishment engaged in cleaning or detailing motor vehicles, whether self-service or automated.

(65) **Catering Service/Facility** shall mean an establishment providing the processing, assembly and packaging of food into servings typically designed for consumption off-premises. These facilities may include commercial or on-site kitchens and may be used in an accessory manner for teaching, instructing, or other related indoor activities that utilize the onsite catering service

(66) **Cemetery** shall mean land used or intended to be used for the burial of the dead and dedicated for cemetery purposes. A cemetery may include a funeral home, mortuary, or a columbarium, but shall not include a crematory.

(67) **Centerline** shall mean a line painted or marked upon a roadway for the purpose of separating opposing traffic or, where not painted or marked, an imaginary line an equal distance between the opposite curb lines or lateral lines of a roadway.

(68) **Centralized Exploration and Production (E&P) Waste Management Facility** shall mean a facility, other than a commercial disposal facility regulated by the Colorado Department of Public Health and Environment, that is either used exclusively by one owner or operator or is jointly used by more than one operator under an operating agreement for collection, treatment, temporary storage, and/or disposal produced water, drilling fluids, completion fluids, and any other E&P wastes as defined by the COGCC Rules. This definition includes oil-field naturally occurring radioactive materials (NORM) related storage, decontamination, treatment, or disposal. This definition excludes a facility that is permitted in accordance with COGCC Rules.

(69) **Certificate of Occupancy** shall mean a certificate issued by the city after final inspection, when it is found that the building, structure, and/or development complies with all requirements and all provisions of the applicable city building code and approved plans.

(70) **Chain Link Fence** shall mean a fence composed of wire mesh, typically forming woven squares approximately two inches in width.

(71) **Charter** shall mean the city's home rule charter.

(72) **Child** shall mean a person less than 18 years of age.

(73) **Child Care Center** shall mean a facility, by whatever name known, which is maintained for the whole or part of a day for the care of 7 or more children under

the age of 18 years who are not related to the owner, operator, or manager thereof, whether such facility is operated with or without compensation for such care, and shall include facilities commonly known as day nurseries, nursery schools, preschools, play groups, day camps, summer camps, centers for developmentally disabled, and those facilities which give 24-hour care for dependent and neglected children; and shall include those facilities for children under the age of 6 years with stated educational purposes operated in conjunction with a public, private, parochial college or a private or parochial school, except that the term shall not apply to any kindergarten maintained in connection with a public, private, or parochial elementary school system of at least 6 grades.

(74) **Child Care Facility** shall mean child care centers and day care homes, as defined herein.

(75) **Church** (See Religious Institution)

(76) **Clean Water Act** shall mean the Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq.) and any subsequent amendments thereto.

(77) **Clearing** shall mean any activity that removes vegetative surface cover.

(78) **Clock Tower** shall mean a free-standing structure displaying the time on one or more sides of the structure.

(79) **COGCC** shall mean the Colorado Oil and Gas Conservation Commission.

(80) **Collector Street** shall mean a street which has the primary function of providing for the distribution of traffic within neighborhoods and which carries through traffic and provides access to abutting property. A collector street is also a through street.

(81) **Column/Pillar** shall mean an architectural support of definite proportions, usually cylindrical in shape, with shaft, capital, and sometimes a base. May be free-standing or attached to a wall or fence.

(82) **Co-location** shall mean the placement of two or more commercial mobile radio service facilities by different cellular service providers on the same monopole or existing building or other structure of the same parcel of property.

(83) **Colorado Discharge Permit System (CDPS)** shall mean a permit issued by the state of Colorado that authorizes the discharge of pollutants to water of the state or United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(84) **Combustible Liquid** shall mean any liquid having a flash point at or above 140° F., and below 200° F., and shall be known as Class III liquids.

(85) **Commercial Disposal Well Facility** shall mean a facility whose primary objective is disposal of Class II waste from a third party for financial profit.

(86) **Commercial Indoor Self-Storage Facility** shall mean a nonresidential building, portion of building, or group of buildings with defined storage space or units rented to and accessible to the public for the storage of household and personal property. These facilities shall have all units contained within that building(s) and all units having an access door from an interior hallway. For purposes of this code, commercial indoor self-storage facility shall not mean the same use as mini-storage and warehouse.

(87) **Commercial Mobile Radio Service Facility or CMRS** shall mean a low-power, micro-cell, microwave, or repeater transmission facility, including, but not limited to, freestanding towers, panels, or whip antennas, and accessory buildings and equipment, which are capable of protecting and enabling the operation of the telecommunication facility to receive, switch, or transmit wireless telecommunications.

(88) **Commercial Mobile Radio Service Facility, Building Wall** shall mean a commercial mobile radio service facility that is supported entirely on the wall of a legally existing building or structure, as defined, which may include a cabinet or structure accessory to a commercial mobile radio service facility, which may be on the ground.

(89) **Commercial Mobile Radio Service Facility, Free-standing** shall mean a commercial mobile radio service facility that consists of a stand-alone support structure, antennas, and accessory equipment.

(90) **Commercial Mobile Radio Service Facility, Roof Mounted** shall mean a facility that is supported entirely on the roof of a legally existing building or structure, as defined, which may include a cabinet or structure accessory to a commercial mobile radio service facility, which may be located on the ground or on the roof.

(91) **Commercial Use** shall mean an activity involving the sale of goods or services carried out for profit, including office, retail, service business, and other similar development.

(92) **Commodity** shall mean goods, wares and merchandise of any kind, movables, and articles of trade or commerce. Commodity shall also mean things that are bought and sold.

(93) **Communication Long Distance Trunk (Feeder) Line** shall mean a low-voltage wiring, cable conduit, coaxial conduit, or fiber optic line carrying voice communications and/or data and shall be classified by definition as a distribution line.

(94) **Community Garden** shall mean a use in which land is managed by a public or nonprofit organization or group of individuals used to grow plants and harvest food or ornamental crops for donation or for use by those cultivating the land. Community gardens may be organized by the operating agency or group into individual areas for cultivation by one or more persons or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

(95) **Compatible or Compatibility** shall mean that the characteristics of different uses, activities, or designs allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass, and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts. Other important characteristics that affect compatibility are color and texture of exterior finishes, landscaping, lighting, noise, odor, building materials, and building architecture. Compatibility does not mean the same as. Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development.

(96) **Completion** shall mean, as it relates to Oil and Gas Operations, an oil well shall be considered completed when the first new oil is produced through well head equipment into lease tanks from the ultimate producing interval after the production string has been run. A Gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the production string has been run. A dry hole shall be considered completed when all provisions of plugging and abandonment are complied with as set out in the COGCC rules. Any well not previously defined as an Oil or Gas Well, shall be considered completed ninety (90) days after reaching total depth. If approved by the COGCC Director, a well that requires extensive testing shall be considered completed when the drilling rig is released or six months after reaching total depth, whichever is later.

(97) **Comprehensive Plan** shall mean the master plan for the city, as adopted and amended by the city council, to provide long-range development policies for the city.

(98) **Comprehensive Plan Amendment, Minor** shall mean minor text changes and corrections that do not impact the substantive portions of the Land Use Plan's mixture or balance and involve properties that are less than 8 acres in size. Any change mandated by initiatives or state law shall utilize the minor amendment process.

(99) **Compressed Gas** shall mean any mixture of material having in the container either an absolute pressure exceeding 40 pounds per square inch at 70° F., or an absolute pressure exceeding 104 pounds per square inch at 130° F., or any liquid flammable material having a vapor pressure as defined in the city's fire code exceeding 40 pounds per square inch at 100° F.

(100) **Concealed Lighting** shall mean an artificial light source intended to illuminate the face of a sign, which may be internally lighted or which is shielded from public view and surrounding properties from which the sign is visible.

(101) **Concrete Batching Plant** shall mean an industrial establishment or plant where a material made from sand, pebbles, and/or crushed stone is held together by a mass of cement or mortar.

(102) **Conditional Use** shall mean a use not otherwise provided for, but which may be permitted upon showing that such use fits with the city's comprehensive plan, is essential or desirable to the community, and will not have a significant adverse impact on surrounding uses or on the community at-large. Conditional uses are authorized by the city council after review by the planning commission.

(103) **Condominium** shall mean a building, or group of buildings, in which dwelling units, offices, or floor area are designated for separate ownership, and the remainder of the structure, land area, and facilities are commonly owned by all the unit owners on a proportional, undivided basis.

(104) **Construction Office or Trailer** shall mean a mobile trailer or any temporary structure used by a construction contractor as its office or headquarters during construction of a development or structure.

(105) **Contractor's Shop** shall mean an establishment that provides a trade service including, but not limited to, plumbing, carpentry, glass/glazing, welding, sheet metal, electrical, and roofing services.

(106) **Convenience Store** shall mean a general retail store that sells goods and services and that may include the sale of ready-to-eat food products (not generally intended for on-premises consumption), gasoline, groceries, sundries, and 3.2 beer.

(107) **Correctional Facility** shall mean a facility providing housing and care for individuals confined for violations of law. Typical uses include jails, prisons, work release facilities, and juvenile detention centers.

(108) **Courier Services** shall mean an establishment primarily engaged in the delivery of individually addressed letters, parcels, and packages that generally weigh less than 100 pounds.

(109) **Crematory** shall mean a service establishment containing properly installed, certified apparatus intended for, or used for, the act of cremation.

(110) **Critical Facility** shall mean a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the State of Colorado, Department of Natural Resources, Colorado Water Conservation Board document entitled "Rules and Regulations for Regulatory Floodplains in Colorado," dated

November 17, 2010 and as may be amended from time to time, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. Generally, critical facilities are those that shelter essential services, hazardous materials, and at-risk populations. If it is unclear whether or not a facility falls within the context of Rule 6, the Floodplain Administrator shall have the sole authority to make such determination.

- (111) **Crosswalk** shall mean that portion of a roadway included within the prolongation or connection of the lateral lines of sidewalks at intersections or any portion of a roadway distinctly indicated for pedestrian crossing by lines or other marking on the surface.
- (112) **C.R.S.** shall mean the Colorado Revised Statutes, as may be amended from time to time.
- (113) **Cul-de-sac** shall mean a street having one end open to traffic and being terminated at the other end by a vehicular turnaround.
- (114) **Curb Cut** shall mean a street curb depression intended to provide vehicular ingress and egress to a property.
- (115) **Day Care Center, Adult** shall mean a facility, whether non-profit or for-profit, that provides care, protection, and supervision for 6 or more adults on a regular basis away from their primary residence for less than 24 hours per day.
- (116) **Day Labor Facility** shall mean any facility at which job seekers wait on site to be hired by the day or by short-term job by third parties. Job seekers generally must be present to obtain work, are often immediately transported to a job site, and typically return to the facility for payment. Related support services may be offered to job seekers while they wait on site.
- (117) **Dead-End Street** shall mean a street having no exit or turn-around within a right of way.
- (118) **Decision-Making Body** shall refer generally to the body or person with final approval authority for the application or permit in question.
- (119) **Department** shall mean the department of the city charged with the responsibility of interpreting and applying this land development code.
- (120) **Designated Agent** shall mean the designated representative of any oil and gas well operator.
- (121)

(122) **Developer** shall mean any person who participates as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, or sale of a subdivision or development.

(123) **Development** shall mean any manmade change to improved or unimproved real estate including, but not limited to the construction, reconstruction, conversion, or enlargement of any structure; any change in use or platting of a property, building or structure; and any mining, dredging, filling, grading, paving, excavation, or drilling operation or storage of equipment or materials.

(124) **Development Agreement** shall mean any contract(s) between a developer and the city in connection with any development approval, including without limitation rezoning, subdivision, or PUD approval. Development Agreements may include provisions clarifying the phasing of construction, the timing, location, and financing of infrastructure, reimbursement for oversized infrastructure, assurances that adequate public facilities (including roads, water, sewer, fire protection, and emergency medical services) will be available as they are needed to serve the development, and mitigation of anticipated impacts of the development on the general public.

(125) **Development Plan** shall mean a plan, together with written materials, showing the character and layout of the lot or lots including the exact location, square footage, and dimensions of buildings, yards, courts, parking, fences, common open space and other features; the use of each building and area; the architectural elevations of buildings indicating height, materials, and color; detailed landscape plan; streets, curb cuts, and alleys; utilities, drainage, and other easements.

(126) **Development Review Team (DRT)** shall mean representatives from the city and other officials, consultants, or agencies that review and make recommendations on land use applications.

(127) **Director** shall mean the head of the department which is charged with the responsibility of interpreting and applying the terms of this land development code.

(128) **Distillery** shall mean a facility that manufactures alcoholic beverages by the distillation of fermented agricultural products, and including but not limited to whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof.

(129) **Distribution Center** shall mean a facility for the receipt, transfer, storage, and dispatching of goods transported by truck. Unlike Transportation Terminals, these establishments commonly utilize a warehouse, sometimes specialized with refrigeration or air conditioning, and may include the accessory uses of order processing, package handling, cross-dock, storage or parking of trucks awaiting cargo, as well as facilities for the light servicing of trucks.

(130) **Distribution Line** shall mean the communications, cable television wiring, coaxial, fiber optic, water, sewer, natural gas or other utility line connections, excepting electrical systems, between the provider's generation facility and the service lateral.

(131) **Dog Track** shall mean an establishment where live dogs are raced or live broadcasts of dog races are televised. Typically, bets are placed and paid out within the establishment.

(132) **Doggie Day Care Center** shall mean an establishment in which one or more persons regularly provide supervised care during daytime hours for periods of less than 24 hours a day for one or more dogs which they do not own.

(133) Drilling and Spacing Unit as defined by Colorado Revised Statutes §34-60-116(2), shall mean a “common source of supply” of oil and gas that may be targeted by one or more oil and gas wells or as amended by COGCC rule or statute.

(134) **Drainage Way** shall mean any channel that conveys surface water runoff throughout the site.

(135) **Drive-Up Facility (also known as Drive-In or Drive-Through Facilities)** shall mean an establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

(136) **Driveway** shall mean a paved or unpaved area used for the ingress and/or egress of vehicles, and allowing access from a street to a building or other structure or facility.

(137) **Driveway, Shared** shall mean a single driveway serving two or more adjoining lots or uses.

(138) **DRT** see Development Review Team.

(139) **Dry Cleaning Plant** shall mean an industrial establishment for the purpose of cleaning garments and fabrics with any of a variety of non-aqueous agents.

(140) **Dwelling** shall mean any building or portion thereof which is used exclusively for residential occupancy of one or more persons, but not including lodging establishments, clubs, hospitals, recreational vehicles, trailers, or other structures designed or used primarily for temporary occupancy. In no event shall any campground or vehicle be considered a dwelling for purposes of this land development code.

(141) **Dwelling, Accessory** shall mean a second dwelling unit either within or added to an existing single-family detached dwelling, or in a separate accessory

structure on the same lot as the main dwelling, for use as a complete, independent living facility with provision within the accessory dwelling for cooking, eating, sanitation, and sleeping.

(142) **Dwelling, Two-Story** shall mean a home with two levels where the first floor is no lower than five feet below grade for not more than 50 percent of the perimeter of the home and the second level covers a minimum of 50 percent of the first floor.

(143) **Dwelling Unit** shall mean one or more rooms connected together but structurally divided from all other rooms in the same structure and constituting a separate, independent housekeeping unit for permanent residential occupancy.

(144) **Easement** shall mean an interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose.

(145) **Eaves** shall mean the projecting lower edges of a roof overhanging the wall of a building.

(146) **ECSS** shall mean the Engineering Construction Standards and Specifications of the city.

(147) **Electrical Distribution Line** shall mean an electrical line generally having a rated voltage of less than 26 kilovolts used to distribute electricity from the substation to the service lateral.

(148) **Electrical Transmission Line** shall mean an electrical transmission line generally having a rated voltage of 26 kilovolts or greater and used to distribute electricity to utility provider substations.

(149) **Elevation** shall mean a fully dimensioned drawing of the front, rear, and sides of a building showing features such as windows, doors, and relationship of grade to floor level.

(150) **Erosion and Sediment Control Plan** shall mean a set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

(151) **Erosion Control** shall mean any measure that prevents soil from wearing away.

(152) **Establishment** shall mean a place of business, industry, retail, or professional office with its furnishings and staff.

(153) **Events Center** shall mean a publicly or privately owned building devoted to assembly of people for social, professional, or recreational activities such as meetings, weddings, or conferences.

(154) **Existing Building or Improvement** shall mean a building or improvement that exists or is under construction at the time the underlying property is initially zoned or rezoned.

(155) **Exploration and Production Waste (E&P Waste)** shall mean those wastes associated with operations to locate or remove oil, gas or its byproducts from the ground or to remove impurities from such substances and which are uniquely associated with and intrinsic to oil and gas exploration, development, or production operations. For natural gas, primary field operations include those production-related activities at or near the well head and at the gas plant (regardless of whether or not the gas plant is at or near the wellhead) but prior to transport of the natural gas from the gas plant to market. In addition, uniquely associated wastes derived from the production stream along the gas plant feeder pipelines are considered E&P wastes, even if a change of custody in the natural gas has occurred between the wellhead and the gas plant. In addition, wastes uniquely associated with the operations to recover natural gas from underground storage fields are considered to be E&P Wastes.

(156) **Explosives** shall mean:

(a) Substances determined to be Class A and Class B explosives as classified by the U.S. Department of Transportation;

(b) Nitrocarbonitrile substances (blasting agent) as classified by the U.S. Department of Transportation;

(c) Any material designated as an explosive by the state fire marshal; or

(d) Certain Class C explosives as designated by the U.S. Department of Transportation.

(157) **Extraction Agreement** shall mean the agreement between the Operator and the City that is required by this Code.

(158) **Façade** shall mean the exterior walls of a building.

(159) **Factory-Built Home** shall mean any structure, designed for permanent residential use, which is wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purposes of this Land Development Code, factory built home shall include mobile homes, manufactured homes, factory-built (modular) homes, and panelized (pre-fabricated) homes.

(160) **Family** shall mean:

- (a) An individual or two or more persons related by blood, marriage, adoption, or legal custody, including those persons defined by the Internal Revenue Code who qualify as dependents of the occupants of the subject premises, living together in a dwelling unit; or
- (b) A group of not more than three persons, not related by blood, marriage, or adoption, living together in a dwelling unit.
- (c) Except that a family shall not include more than one individual who is required to register as a sex offender under the provisions of the C. R. S. Sec. 18-3-412.5, as amended, except if the members of the family are related by blood or marriage, or if such individuals have been placed by order of a state agency with jurisdiction.

(161) **Family Child Care Home** shall mean a residence which is used by its owner or legal occupant for the purpose of providing care or training to 12 or fewer children who are under the age of 18 years and unrelated to the care provider. For the purposes of this land development code, operation of a day care home is considered to be an accessory use to a principal residential use.

(162) **Farmers' Market** shall mean the seasonal offering for sale of fresh agricultural products directly to the consumer at an open-air market.

(163) **Fast Food Restaurant** shall mean an eating/drinking establishment that may be either: (1) a free-standing operation; or (2) a non-free-standing operation incorporated into a building within which one or more other compatible and complimentary uses exist, and whose principal business is the sale of pre-prepared or rapidly prepared food to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes two or more of the following characteristics:

- (a) The elimination, in whole or in part, of table service, thus requiring customers to place orders at a counter where the orders are filled;
- (b) The food is usually served in edible containers or in paper, plastic, or other disposable containers;
- (c) The facilities for on premises consumption of food are insufficient for the volume of food sold by the restaurant; or
- (d) The restaurant provides a drive-up facility for placing and receiving food orders.

(164) **FCC** shall mean the Federal Communications Commission.

(165) **Fence** shall mean a free standing structure resting on or partially buried in the ground and rising above ground level used for confinement, screening, or partition purposes.

(166) **Final Plat** shall mean a map and supporting materials of certain described land prepared in accordance with subdivision regulations as an instrument for recording real estate interests with the county clerk and recorder.

(167) **Financial Institutions** shall mean establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. This classification includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. This classification also includes automated teller machines (ATM) located within a fully-enclosed space or building, or along an exterior building wall intended to serve walk-up customers only.

(168) **Firewood Sales and Storage** shall mean a commercial establishment or area for the purpose of firewood sales, splitting, and storage.

(169) **Flag** shall mean any fabric containing distinctive colors, patterns, or symbols used as a symbol of a government, political subdivision, or other entity.

(170) **Flammable Liquid** shall mean any liquid having a flash point below 140° F., and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100° F. The provisions in this land development code shall also be applied to high flash point liquids that otherwise would be outside of its scope when they are so heated. Flammable liquid shall be divided into two classes of liquids as follows:

(a) Class I liquids shall include those having flash points below 100° F., and may be subdivided as follows:

(i) Class I A: Flash points below 73° F., and having a boiling point below 100° F.;

(ii) Class I B: Flash points below 73° F., and having a boiling point at or above 100° F.; or

(iii) Class I C: Flash points at or above 73° F., and below 140° F.

(b) Class II: Flash points at or above 100° F. When artificially heated to temperatures equal to or higher than their flash points, Class II shall be subject to the applicable requirements for Class I.

(171) **Flammable Material** shall mean any material that will readily ignite from common sources of heat or material that will ignite at a temperature of 600° F. or less.

(172) **Flammable Solid** shall mean a solid substance other than one classified as an explosive, which is liable to cause fires through friction, through absorption of moisture, through spontaneous chemical changes or as a result of retained heat from the manufacturing or processing.

(173) **Flea Market** shall mean an occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

(174) **Flood or Flooding** shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(175) **Flood Insurance Rate Map (FIRM)** shall mean the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the city.

(176) **Flood Insurance Study** shall mean the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

(177) **Floodplain or Flood-Prone Area** shall mean any land area susceptible to being inundated by water from any source (see Flooding).

(178) **Floodplain Administrator** shall mean the local administrative official who is responsible for administering and implementing the city's Flood Overlay District.

(179) **Floodplain Management** shall mean the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(180) **Floodplain Management Regulations** shall mean zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.

(181) **Floodplain Permit** shall mean a permit issued by the city to allow any change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation

or drilling operations or storage of equipment or materials located on property within a designated floodplain.

(182) **Flood Proofing** shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

(183) **Flood Profile** shall mean a graph or longitudinal profile showing the relationship of the water surface elevation of a flood event to location along a stream or river.

(184) **Flood Protection Elevation** shall mean an elevation 1 foot above the elevation of flood profile of the 100-year flood under existing channel and floodplain conditions.

(185) **Floodway (Regulatory Floodway)** shall mean the channel of a river or other watercourse and the adjacent land areas that must be preserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(186) **Floodway Fringe** shall mean the area of the floodplain that lies outside of the floodway and could be completely obstructed without increasing the water surface elevation of the 100-year flood more than 1 foot at any point.

(187) **Flowlines** shall mean, as it relates to Oil and Gas Operations, those segments of pipe from the wellhead downstream through the production facilities ending at: in the case of gas lines, the gas metering equipment; or in the case of oil lines the oil loading point or LACT unit; or in the case of water lines, the water loading point, the point of discharge to a pit, the injection wellhead, or the permitted surface water discharge point.

(188) **Footcandle** shall mean a unit of measurement referring to an illumination incident to a single point. One footcandle is equal to one lumen uniformly distributed over an area of one-square foot.

(189) **Footprint** shall mean the total area that is covered by a building's perimeter at ground level.

(190) **Foster Care Home** shall mean a facility, as defined by C.R.S. § 26-6-102(4.3), as amended, that is properly licensed by the state of Colorado, Adams County, or any of its designees as a foster care home. The age of a child placed in a foster care home may not exceed 18 years, or in the case of a child placed in foster care by court order prior to his or her 18th birthday, 21 years.

(191) **Frontage** shall mean the side(s) of a lot adjacent to a street.

(192) **Frontage Road** shall mean a roadway located between a controlled access street or highway and adjacent property and that provides access to the street or highway. For purposes of these regulations, all frontage roads shall bear the classification of collector streets. All regulations pertaining to collector streets shall apply to frontage roads. Under these regulations, frontage roads are not considered to be a part of the cross-section or right-of-way of major arterial streets or expressways.

(193) **Garage** shall mean a building or the portion of a building designed and intended for the parking or temporary storage of motorized vehicles.

(194) **Gas Storage Well** shall mean any well drilled for the injection, withdrawal, production, observation, or monitoring of natural gas stored in underground formations. The fact that any such well is used incidentally for the production of native gas or the enhanced recovery of native hydrocarbons shall not affect its status as a gas storage well.

(195) **Gathering Line** shall mean a pipeline and equipment described below that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term “gathering line” includes valves, metering equipment, communication equipment cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

(196) **Grade** (adjacent ground elevation) shall mean the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or when the property line is more than five feet from the building, between the building and a line five feet from the building.

(197) **Grading** shall mean excavation or fill of earth material, or any combination thereof, or any land disturbance.

(198) **Grading Permit** shall mean a permit issued by the city for grading.

(199) **Green Completion** shall mean those practices intended to reduce emissions from oil and gas production or completion operations, and from condensate vapors during cleanout and flowback operations prior to the well being placed on production and thereafter on any recompletions or reentries.

(200) **Greenhouse** shall mean a structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants.

(201) **Gross Floor Area** shall mean the total area in square feet of all floors of a building measured from exterior walls.

(202) **Groundcover** shall mean low-growing perennial and/or evergreen plants, other than turf-grass, which grow and spread in such a manner as to provide continuous plant coverage. Such plants are typically shorter than 18 inches, and may include herbs, ivies, ornamental grasses, perennials, spreading evergreens, succulents, vines, and wildflowers. Annuals, mulches, and stone are not considered groundcovers, nor are tree canopies.

(203) **Groundwater** shall mean, as it relates to Oil and Gas Operations, subsurface waters in a zone of saturation.

(204) **Group Home** shall mean a residence operated as a single use, licensed or operated by a governmental entity, where authorized supervisory personnel are present on the premises for the purpose of providing physical assistance and/or other supportive services to individuals needing special care or rehabilitation.

(205) **Group Home, Type A** shall mean a group home serving no more than eight handicapped individuals. Type A group homes shall include, but are not limited to:

(a) *Group Home for Developmentally Disabled Persons* shall mean a state-licensed group home exclusively for the care of person with developmental disabilities, as defined and regulated by the Colorado Department of Human Services, Division for Developmental Disabilities Services, and the Colorado Department of Public Health and Environment;

(b) *Group Home for Elderly Persons* shall mean a group home of persons 60 years of age or older who do not require medical attention associated with a residential health care facility. Group Homes for Elderly Persons shall be either: (1) licensed as a personal care boarding home or alternative care facility by the Colorado Department of Public Health and Environment; or (2) certified as an adult foster care facility by the Adams County Department of Social Services; or

(c) *Group Home for Mentally Ill Persons* shall mean a state-licensed group home exclusively for the care of persons with mental illness, as defined and regulated by the Colorado Department of Public Health and Environment.

(206) **Group Home, Type B** shall mean a group home whose residents are not handicapped or protected under federal or state fair housing legislation. In addition, a Type B group home includes a Type A group home which houses more than eight residents, subject to the provision for reasonable accommodation set forth in section 21-5238.

(207) **Guard House** shall mean a structure, located on a private road or on private property for the purpose of manually or electronically regulating and monitoring pedestrian and/or vehicular traffic into a development or neighborhood and promoting security within the development or neighborhood; provided however, a guardhouse shall include only those structures that are not designed or used for sleeping or living purposes.

(208) **Guest House** shall mean an accessory dwelling attached or unattached to a principal dwelling, used to house guests of the occupants of the principal dwelling, and which shall not be rented or leased, or held in ownership by other than the owner of the principal dwelling.

(209) **Gun Club** shall mean an establishment designed to provide target practice in the use of firearms under controlled conditions whether or not the use is conducted within an entirely enclosed soundproof building or outside of a building so that the public health and safety are protected. These establishments may also include the accessory sale of firearms, the sale of ammunition, the sale of associated equipment or supplies, and the sale of food to the patrons of the establishment.

(210) **Halfway House** shall mean a building used as a detention or receiving facility for persons who are on probation or parole, or who are placed in the facility by reason of court order resulting from an offense committed or allegedly committed by the person.

(211) **Hazardous Materials** shall mean those chemicals or substances, which are physical or health hazards as defined and classified in the fire and building codes adopted by the city. Hazardous materials categories include explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, radioactive materials, corrosives, carcinogens, irritants, sensitizers and other health hazards.

(212) **Hazardous Waste Disposal Site** shall mean such site for disposal of hazardous waste as defined by the C.R.S. § 25-15-201 *et seq.*

(213) **Highest Adjacent Grade** shall mean the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(214) **Historic Structure** shall mean any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(d) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior in states without approved programs.

(215) **Home Occupation** shall mean a business, profession, occupation, or trade that is conducted for gain as an accessory use within a dwelling unit by a resident of the dwelling.

(216) **Hoop House** shall mean an unheated greenhouse, most commonly constructed with arches of plastic or metal.

(217) **Hospital** shall mean any building or portion thereof used for the accommodation and medical care of sick, injured or infirm persons including related facilities such as laboratories, out-patient facilities, training facilities, central service facilities and staff offices.

(218) **Illegal Use** shall mean any use, whether of a building or other structure, or of a tract of land, in which a violation of any provision of this land development code has been committed or shall exist.

(219) **Impervious Surfaces** shall mean those portions of a lot or parcel that are covered by principal and accessory buildings or structures, and by surfaces that prevent the passage or absorption of stormwater, such as paving and driveways.

(220) **Impound yard** shall mean use of any property for the temporary outdoor storage of towed vehicles by a towing service operator that are to be claimed by the titleholder or their age.

(221) **Improvements** shall mean streets, curbs, gutters, drainage facilities, sidewalks, pedestrian walks, water mains, sanitary and storm sewers, underground gas lines, underground and overhead utility lines, telecommunication lines and facilities, street trees, ornamental street lights, and such other items as may be designated by the city.

(222)

(223) **Incinerator, Solid Waste** shall mean a specific type of waste/salvage use in which an engineered apparatus is used to burn waste substances and in which all the combustion factors, temperature, retention time, turbulence and combustion air, can be controlled.

(224) **Industrial Activity** shall mean an activity subject to Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

(225) **Infill or Redevelopment** shall mean an area of platted or unplatted land that, together with all adjacent vacant land in private ownership, includes no more than 20 acres of land, and where the land along at least 75 percent of the boundaries of the proposed development (ignoring intervening streets) has been developed.

(226) **Inert Material Disposal Site** shall mean any placement in an excavation or on top of the ground of dirt, gravel, rock, asphalt, slag, brick, concrete, cinders and any other type of noncombustible materials in accordance with the regulations set forth in this land development code except for any such placement of materials approved by the department of community development for use in conjunction with a change in elevation for development of the site. Inert Material is defined in C.R.S. § 25-15-101(14).

(227) **Injection Well** shall mean any Class II wells used for the exclusive purpose of injecting fluids or gas from the surface for enhanced oil recovery or the disposal of E&P wastes.

(228) **Inoperable Vehicle** shall mean a vehicle which is not awaiting disposition instructions as a result of a collision and: does not display current license plates from any state registered to the vehicle; is visibly damage, wrecked, dismantled, in serious disrepair, deteriorating (rusting/rotting), or missing major components; or is being salvaged, parted out, prepared for crushing, shredding or scraping. Notwithstanding the foregoing, neither special interest vehicles nor vehicles undergoing reasonably active restoration shall be considered an inoperable vehicle

(229) **Junk** shall mean any discarded or scrap lumber, metals, materials, furniture, fixtures, appliances, motor vehicle parts or tires; wrecked, abandoned, demolished, dismantled or non-operable machinery and trailers; goods that are so worn or deteriorated as to make them unusable in their existing condition for the purpose intended when first made or assembled; and goods that are extracted, disassembled or removed in parts and left in a condition not capable of use for the purpose intended when first made or assembled.

(230) **Junk Yard** shall mean a building, structure or parcel of land or portion thereof, used for the collecting, dismantling, storage, salvaging, demolition or sale of junk as defined in this land development code.

(231) **Kennel** shall mean any establishment or parcel of property upon which a person engages in the business of boarding, housing, breeding, training, trading, buying or selling dogs, cats, or any other domesticated animal. The term kennel shall not include pet stores, doggie day care centers, or any boarding facility operated by a veterinarian as part of a veterinary practice.

(232) **Kindergarten** shall mean any facility providing an educational program for children only for the year preceding their entrance to the first grade, whether such facility is called a kindergarten, nursery school, preschool, or is called by any other name. The term shall not include any facility licensed as a foster family home under the provisions of this land development code.

(233) **Kiosk** shall mean a freestanding structure upon which temporary information and/or posters, notices and announcements are posted.

(234) **Landfill** shall mean a disposal site or facility employing an engineered method of disposing of solid waste, including demolition and construction debris. For purposes of this code, the term landfill shall also apply to any solid waste disposal site and facility or any type of hazardous waste disposal site and facility.

(235) **Landfill, Demolition and Construction Debris** shall mean a disposal site for metal, plastic, glass, concrete, asphalt, brick, wood, dirt, and limited amounts of paper products if such paper is an integral part of materials used for construction purposes.

(236) **Landscaping** shall mean aesthetic improvements using natural and manmade materials. Landscaping areas may also include, by way of example but not by way of limitation, the following: Basketball courts, pools, tennis courts, playgrounds or similar recreational areas or uses.

(237) **Landscaping Materials** shall mean, but not be limited to trees, shrubs, vines and plants of all descriptions (excluding weeds and other unkempt vegetation) and other materials and treatments such as stone, mulches, and other non-living landscape materials.

(238) **Letter of Map Revision Based on Fill (LOMR-F)** shall mean FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

(239) **Light Trade and Technical Uses** shall mean the fabrication, assembly, packaging, or repair, rental, or servicing of any commodity, the sale of which is permitted within the subject zoning district.

(240) **Liquor Store** shall mean a state-licensed, retail establishment selling packaged alcoholic liquors (including beer, wine, and spirituous liquors) for consumption off-site. Liquor store does not include restaurants, taverns, or bars.

(241) **Limited Equipment Rentals** shall mean the rental of equipment primarily intended for individual use and minor residential gardening and construction projects. This use category does not include the rental, storage, or maintenance of large construction equipment. Such vehicles are restricted to the broader use category of vehicle/equipment sales and rentals.

(242) **Livestock** shall mean animals commonly regarded as farm animals, including but not limited to, cattle, horses, goats, llamas, ostriches, and sheep, but excluding pet animals such as rabbits, poultry, and domestic fowl.

(243) **Living Plant Material Coverage** shall mean the covering of raw ground or bare dirt with living landscape materials at a growth size of 2/3 maturity, such as shrubs, groundcovers, perennials, vines and all plants of all descriptions (excluding weeds or other unkempt vegetation).

(244) **Local Government Designee (LGD)** shall mean the office or person designated to receive, on behalf of the local government, copies of all documents required to be filed with the local government designee pursuant to these rules.

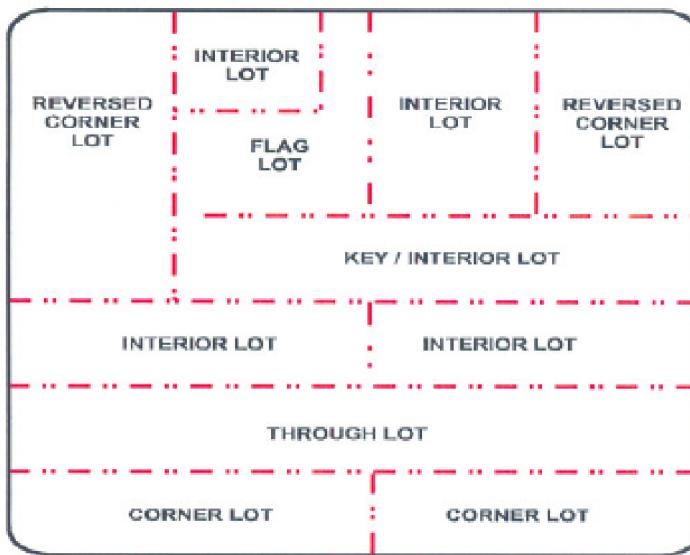
(245) **Local Street** shall mean a street which has the primary function of providing access to abutting property and which does not normally carry through traffic.

(246) **Lodging Establishment** shall mean an establishment, building, or premises with more than 20 sleeping rooms where lodging is offered for compensation.

(247) **Lodging, Extended Stay** shall mean a lodging establishment offering suites with living, kitchen, and sleeping areas.

(248) **Lot** shall mean a unit of subdivided land occupied or designed to be occupied by a primary use or building or a group of such buildings and accessory buildings.

Figure XI-4. Lot Types



(249) **Lot Area** shall mean the total horizontal, square footage area within the lot lines of a lot.

(250) **Lot, Corner** shall mean a lot abutting upon two or more streets at their intersection or upon two parts of the same street and where, in either case, the interior angle formed by the intersection of street lines does not exceed 135 degrees.

(251) **Lot, Double Frontage** shall mean a lot that runs through a block from street to street and which has two non-intersecting sides abutting on two or more streets. The required setbacks from each street shall comply with the zoning requirements of the respective district.

(252) **Lot, Flag** shall mean a lot not meeting minimum frontage requirements and where the access to the public or private road is by a narrow private right-of-way or driveway, also known as a flagpole.

(253) **Lot Frontage** see sections 21-11110 and 21-11115.

(254) **Lot, Interior** shall mean a lot which is not a corner lot and has only one street frontage.

(255) **Lot Line** see Property Line.

(256) **Lot Line Adjustment** shall mean a change in lot or parcel boundaries that does not create additional lots or parcels.

(257) **Lot Pin** shall mean a solid steel pin established to provide for the accurate location of platted property lines.

(258) **Lot of Record** shall mean a lot that is part of an approved plat, the map of which has been recorded in the office of the Adams County Clerk and Recorder.

(259) **Lot, Reversed Corner** shall mean a corner lot the side street of which is substantially a continuation of the front lot line of the first lot to its rear.

(260) **Lowest Floor** shall mean the floor of the lowest enclosed area (including basement) in a structure. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

(261) **Machinery** shall mean an assemblage of parts that transmit forces, motion, and energy one to another in a predetermined manner. This term shall also include a mechanically, or electronically operated device for performing a task.

(262) **Maintenance** shall mean the routine recurring work required to keep a building, equipment, or commodity in such a condition that it may be continuously utilized at its original or designed capacity and efficiency for its intended purpose.

(263) **Mansard Roof** shall mean a roof with at least two slopes on any side with the tower slope steeper than the upper one(s). The deck line is the top edge of the lower slope.

(264) **Manufacturing** shall mean the process, assembly, fabrication, production, construction or other preparation of a raw material product or component part of a product to make, create or process towards or into a finished product. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Good are generally not displayed or sold on site, but if so, they are a subordinate part of sales.

(265) **Marijuana Business** means any medical marijuana center, optional premises cultivation operation, medical marijuana-infused products manufacturer, retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturer and retail marijuana testing facility.

(266) **Marijuana Membership Club** shall mean an organization and its premises operating on a membership basis for the promotion of interests of the members including the smoking or other consumption of medical or retail marijuana or marijuana products.

(267) **Marquee** shall mean a shelter projecting from and supported by the exterior wall of a building constructed of rigid materials on a supporting framework. A

marquee is distinguished from an awning in that an awning is covered with non-rigid material. A marquee is distinguished from a canopy in that a marquee is cantilevered, whereas a canopy is supported by posts or other devices beyond the building wall.

(268) **Massage Therapy Facility** shall mean a facility that is operated for the purpose of providing massages. This does not include any type of adult business.

(269) **Material Piles** shall mean outdoor storage of loose materials in piles, e.g. construction aggregate piles (sand, gravel, crushed stone, recycled concrete or asphalt, etc.) and landscape material piles (topsoil, compost, mulch, etc.), in heights that exceed the limit allowed for regular outdoor storage. This definition specifically excludes scrap metal, salvage, garbage, debris, refuse, as well as any landfill approved by the city and the state of Colorado.

(270) **Material Recovery Resource Facility (MRRF)** shall mean a facility used to collect, sort, and consolidate recyclable materials including computers, paper, paperboard, glass, plastic, and aluminum, for use as raw material to produce new items at other locations, including interim facilities. This activity may include incidental storage, office, and maintenance facilities.

(271) **Maximum Extent Feasible** shall mean that no feasible and prudent alternative exists, and that all possible efforts to comply with the regulation or minimize potential harm or adverse impacts have been undertaken. Economic considerations may be taken into account but shall not be the overriding factor in determining maximum extent feasible.

(272) **Mean Sea Level** shall mean for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(273) **Median** shall mean that portion of a divided street or highway separating the traveled ways for traffic in opposite directions.

(274) **Medical Marijuana Business** shall mean a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer as defined in the Colorado Medical Marijuana Code.

(275) **Medical Marijuana Center** shall have the meaning ascribed to it in state law.

(276) **Medical Marijuana Infused Product Manufacturer** shall have the meaning ascribed to it by state law.

(277) **Microbrewery** shall mean an establishment where malt liquors are manufactured and packaged on or off premises, manufacturing more than 5,000

but less than 60,000 barrels of malt liquor on its licensed premises each calendar year.

(278) **Micro cell** shall include “micro wireless facility” and shall be defined by C.R.S. 29-27-402(3.5) as currently exists and as may be amended from time to time.

(279) **Micro-winery** shall mean a business that manufactures 5,000 to 10,000 cases of vinous liquors per year.

(280) **Mineral Estate Owner** shall mean the owner or lessee of minerals located under a surface estate that are subject to an application for development.

(281) **Mining** shall mean the development or extraction of a mineral from its natural occurrences on affected land. The term includes, but is not limited to: open mining and surface operation and the disposal of refuse from underground and in-situ mining. The term includes the following operations on affected lands: transportation concentration; milling; evaporation; and other processing. The term does not include: the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe or the extraction of geothermal resources.

(282) **Mini-Storage and Warehouse** shall mean an establishment primarily offering individualized enclosed storage spaces for rent or lease to the general public, including self-storage and mini-storage facilities. This term excludes establishments where the primary use is outdoor vehicle storage.

(283) **Mixed-Use Development** shall mean a single building containing more than one principal permitted land use or a single development of more than one building containing more than one principal permitted land use. In a mixed-use development, the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of vehicular and pedestrian access and parking areas.

(284) **Mobile Home** shall mean any wheeled vehicle, exceeding 8 feet in width or 32 feet in length, including towing gear and bumpers, with or without motor power, built on a permanent chassis designed for residential occupancy, and containing complete electrical, plumbing, and sanitary facilities designed for installation in a permanent or semi-permanent manner without a permanent foundation that is capable of being drawn over public highways by a motor vehicle. Modular homes shall not be considered mobile homes. For the purpose of interpretation of this land development code, mobile home shall not include travel trailers, camping trailers, truck campers, and motor homes, as licensed and/or defined by the state of Colorado when used or designed to be used as a dwelling as provided in this definition.

(285) **Mobile Home Park** shall mean a parcel of land which has been planned and approved for the placement of more than one mobile home, occupied for

dwelling, sleeping, or storage purposes for transient and/or non-transient use and sometimes termed a trailer court, trailer camp, or trailer park.

(286) **Mobile Home Zoning District** shall mean land within the corporate limits of the city that has been zoned for the use and operation of mobile homes and mobile home parks.

(287) **Model Home** shall mean a dwelling representative of other dwellings offered for sale or lease, or to be built in an area of residential development within the city. A model home is used for the sole purpose of selling similar units within the same development and used for this purpose only until all developments are sold.

(288) **Modular Home** shall mean a factory built home, other than a mobile home, which meets all of the following requirements: is designed only for erection or installation on a site-built permanent foundation; is not designed to be moved once so erected or installed; is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site-built housing. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable regulations. The term modular home does not include a recreational vehicle.

(289) **Modular Non-Residential Unit** shall mean a factory-built structure not built on-site, which is not designed for residential use or human habitation.

(290) **Monopole Tower** shall mean a structure designed and constructed to support antenna or antennas for the purpose of providing telecommunications services and which consists solely of a stand-alone ground mounted support pole, pipe, or other solid structure. A monopole tower shall not include any tower supported or attached to guy or support wires. A monopole tower is not a lattice tower.

(291) **MS4** shall mean the municipal separate storm sewer system.

(292) **Mulch** shall mean non-living matter, such as bark chips, chipped wood products, pole shavings, stone and any approved like-materials customarily used in landscape for the purpose of retaining soil-moisture, retarding weed growth, and stabilizing soils.

(293) **Multi-Well Site** shall mean, as it relates to Oil and Gas Operations, a common well pad from which multiple wells may be drilled to various bottomhole locations.

(294) **Museum** shall mean a profit or non-profit, commercial or non-commercial establishment operated as a repository for a collection of nature, scientific, or

literary curiosities, objects of interest, or works of art, not including the regular sale or distribution of the objects collected.

(295) **MUTCD** shall mean the Manual of Uniform Traffic Control Devices.

(296) **NAICS** shall mean the North American Industry Classification System as published by the U.S. Census Bureau.

(297) **Native Seed** shall mean any live landscaping, including dryland grasses and vegetation, but not including weeds capable of growing in the local environment without supplementary watering once established.

(298) **Non-Combustible** shall mean a building construction material which, in the form in which it is used, is either one of the following:

(a) Material of which no part will ignite and burn when subjected to fire; or

(b) Material having a structural base of non-combustible material as defined in paragraph (a) above, with a surfacing material not over one-eighth inch thick, and a flame-spread rating of 50 or less.

Non-combustible does not apply to surface finish materials. Material required to be non-combustible for reduced clearances to flues, heating appliances, or other sources of high temperature shall refer to material conforming to paragraph (a) above. No material shall be classified as non-combustible which is subject to increase in combustibility or flame-spread rating beyond the limits herein established, through the effects of age, moisture, or other atmospheric conditions.

(299) **Nonconformity** shall mean any use, sign, structure, building, or lot that was legally established prior to the effective date of this land development code or any subsequent amendment, but that fails by reason of such adoption, revision, or amendment, to conform to all the current requirements of this land development code.

(300) **Non-Stormwater Discharge** shall mean any discharge to the storm drain system that is not composed entirely of stormwater.

(301) **Nursery** shall mean a retail establishment selling plants and garden supplies in which all merchandise other than plants is kept within an enclosed building or a fully screened enclosure, and fertilizer of any type is stored and sold in package form only. Stock in trade shall be comprised primarily of live plant material, with hardscape materials such as railroad ties, boulders, landscape gravel, and crushed rock limited to a relatively small percentage of sales.

(302) **Nursing Home** shall mean a state-licensed group living facility regulated as a skilled nursing facility, as defined in C.R.S. § 26-4-103(11).

(303) **Obstruction** shall mean any development, stockpile, refuse or matter in, along, across or projecting into any floodplain which might impede, retard or change the direction of a flow of water, either by itself or by catching or collecting debris carried by such floodwater.

(304) **Off-Street Loading** shall mean a site or portion of a site that is not located in a dedicated public right-of-way devoted to the loading or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and landscaped areas.

(305) **Off-Street Parking** shall mean an area, other than a street or alley, designed or used primarily for the temporary parking of vehicles.

(306) **Office** shall mean establishments providing executive, management, administrative, or professional services, including medical or dental services, but not involving the sale of merchandise, except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, doctor, dentist, out-patient medical laboratories, architecture, design, engineering, accounting, and similar offices.

(307) **Office Flex** shall mean a type of development designed to be versatile, which may be used in combination with office (corporate headquarters), research and development, quasi-retail sales, wholesale operations, and including but not limited to craft manufacturing, warehouse, and distribution uses.

(308)

(309) **Oil and Gas** shall mean oil or gas, or both oil and gas.

(310) **Oil and Gas Facility** shall mean equipment, buildings, structures, or improvements associated with or required for the operation of a well site, pipeline, or compressor facility. Facilities include, but are not limited to, well sites, production facilities, production sites, treatment facilities, access roads, well pads, tank batteries, pits, and flowlines .

(311) **Oil and Gas Permit** shall mean any permit issued by the City that allows an Operator to conduct Oil and Gas Well operations

(312) **Oil and Gas Well** shall mean a hole drilled into the earth for the purpose of exploring for or extracting oil, gas, or other hydrocarbon substances.

(313)

(314) **Oil and Gas Operation(s) or Operation(s)** shall mean exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting; drilling; deepening, completion recompletion, reworking, or abandonment of an oil and gas well or gas storage well; production operations

related to any such well including the installation of flowlines and gathering systems; the generation, transportation, storage and treatment of oil and gas; any construction, site preparation, or reclamation activities associated with such operations; and any Oil and Gas well facility, Oil and Gas well site or location, production site or other facility, site or location upon or within which any of the foregoing are conducted, operated, installed, constructed, generated treated or located.

(315)

(316) **One-Hundred-Year Flood** See Base Flood.

(317)

(318) **Operator** shall mean, as it relates to Oil and Gas Operations, any person who exercises the right to control the conduct of oil and gas operations or applies for an Oil and Gas Permit.

(319) **Open Space** shall mean any parcel or area of land or water essentially unimproved without any residential, commercial, or industrial uses and set aside, dedicated, or reserved for public or private use and enjoyment including recreational, scenic, or environmental purposes. Open space may include agricultural uses and natural features located on a site, including but not limited to, meadows, forested areas, steep slopes, flood plains, hazard areas, unique geologic features, ridgelines, unique vegetation, and critical plant communities, stream corridors, wetlands, and riparian areas; wildlife habitat and migration corridors, areas containing threatened or endangered species, and archeological, historical, and cultural resources.

(320) **Optional Premises Cultivation Operation** shall have the meaning ascribed to it by state law.

(321) **Ornamental Grass** shall mean those types of grasses that grow in clumps and do not spread to form a continuous mat, as do turf-grasses. Bunch grasses and other, taller, more decorative types, may be considered ornamental grasses when grown as accents, in conjunction with other plants, in larger bed-plantings.

(322) **Ornamental Tree** shall mean a tree, typically 15- to 20-feet tall at maturity, which is planted for its decorative value, perhaps in screening applications rather than for shading purposes. Ornamental trees are usually deciduous, but may include shortgrowing conifers such as upright junipers, pinion- and bristle-cone pines.

(323) **Outdoor Storage** shall mean the placement of materials, merchandise, stock, supplies, shipping containers, mobile storage containers, machines, operable vehicles, equipment, manufacturing materials, or chattels of any nature

that are not kept in a structure having at least four walls and a roof, for a continuous period of 24 hours or more. Outdoor storage shall not include:

- (a) Items for the general public such as new and used cars, recreational vehicles, boats, landscape stock or related materials, or rental automobiles where such items are permitted for sale in the district in which they are located;
- (b) Outdoor parking of motor vehicles regularly used in connection with the operation of an establishment or parked for less than 48 hours for maintenance;
- (c) The storage of wrecked or inoperable vehicles.

(324) **Overlay Zoning District** shall mean a zoning district superimposed over the underlying zoning district which places further restrictions upon land uses. Developments within the overlay zoning district shall conform to the requirements of both zones.

(325) **Owner** shall mean any person with fee title to the parcel of land or with a contract to obtain fee title to the parcel of land.

(326) **Parapet** shall mean an extension of the main walls of a building above the roof level, often used to shield or screen roof top mechanical equipment and vents.

(327) **Parcel** shall mean a plot of land of any size that may or may not be subdivided or improved.

(328) **Park, Public** shall mean a public-owned parcel of land, with or without improvements, set apart for the recreation of the public.

(329) **Park, Private** shall mean land within or related to a development, not individually owned or dedicated for public use but generally owned and maintained by a homeowner's association, that is designed and intended for the common use or enjoyment of the residents of the development and their guests, and may include such complementary structures and improvements as are necessary and appropriate. Private parks may include trail areas, gardens, scenic areas, buffer areas, pools, tennis courts, playgrounds, and clubhouses.

(330) **Parking Area** shall mean a site or portion of a site devoted to the parking of motor vehicles including parking spaces, aisles, access drives, and landscaped areas.

(331) **Parking Garage** shall mean a permanent structure that is enclosed on all four sides and consists of one or more levels and is primarily dedicated to providing temporary parking or storage of operable vehicles to the general public, regardless of whether or not there is a fee.

(332) **Parking Lot** shall mean an area used for the purpose of temporary, daily, or overnight storage of vehicles, which is not located in a dedicated public right-of-way, a travel lane, a service drive, or any easement for public ingress or egress.

(333) **Parking, Shared** shall mean joint use of a parking lot or area for more than one principal use.

(334) **Pawnshop** shall mean a retail sales establishment where a pawnbroker regularly engages in or solicits business.

(335) **Perimeter Control** shall mean a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

(336) **Permitted Use** shall mean a use allowed in a zoning district either as a Use-by-Right, a Use-by Permit, or as a Conditional Use.

(337) **Pit** shall mean, as it relates to Oil and Gas Operations, a subsurface earthen excavation (lined or unlined), or open top tank, used for oil or gas exploration or production purposes for retaining or storing substances associated with the drilling or operation of oil and gas wells. Pits may include drilling pits, production pits, reserve pits and special purpose pits as defined in COGCC Rules.

(338) **Plane** shall mean any vertical surface, or the projection to a vertical plane of an inclined or curved surface, or wall of a structure that when viewed in elevation, incorporates no overhangs, off-sets, projections, decks, ramadas, loggias, or similar architectural features that would produce shadow patterns or otherwise serve to visually blend the structure into its natural background. If a window or door projects or recedes a minimum of 12 inches, either may be considered as providing visual relief.

(339) **Planned Unit Development (PUD)** shall mean a zone district designation for a tract of land controlled by one or more landowners, which is developed under a plan for either residential, commercial/retail, industrial, public, agricultural, open space or recreational uses, or a combination thereof.

(340) **Plat** shall mean a map that defines the subdivision of land and commonly shows lots, blocks, streets, and other features relevant to the development of the property.

(341) **Plaza** shall mean an open space that may be improved and landscaped, usually surrounded by streets or buildings.

(342) **Plugging and Abandonment** shall mean, as it relates to Oil and Gas Operations, the cementing of a well, the removal of its associated production facilities, the removal or abandonment in-place of its flowline, and the remediation and reclamation of the well site.

(343) **Pole**, for the purposes of telecommunications contexts, shall include “pole structure” and “tower” and shall be defined by C.R.S. 29-47-402(6.5) as currently exists and as may be amended from time to time.

(344) **Pole Construction** shall mean a type of construction for a building that is typically used for the storage of equipment, materials, product, livestock, or crops and is usually constructed of wooden or metal support poles and beams which serve as the primary support for the roof and walls.

(345) **Pollutant** shall mean and include, but not limited to, paints, varnishes, solvents; oil and other automotive, non-hazardous liquid, solid wastes, and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects; floatables; pesticides, herbicides and fertilizers; hazardous substances or wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from construction of a building or structure; and noxious or offensive matter of any kind.

(346) **Porch** shall mean a covered or uncovered entrance with vertical supporting members on a foundation, not including walls.

(347) **Premises** shall mean any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(348) **Primary Caregiver** shall have the same meaning as that ascribed to it in C.R.S. § 25-1.5-106(2)(d.5).

(349) **Primary or Principal Entrance** shall mean the place of ingress and egress used most frequently by the public.

(350) **Principal or Primary Use** shall mean a use of property or a building that is the predominant or general use. This term shall also mean the use that would regularly encompass, at a minimum, 75 percent of the floor space of a building.

(351) **Private Bus Station** shall mean any premise used for the loading and unloading of passengers on non-governmental motor driven buses. The premise may also include ticket purchasing facilities or the storage or parking of buses.

(352) **Private Road** shall mean every road or driveway not owned by the city.

(353) **Processing** shall mean subjecting to some special treatment, to prepare for the market, to convert into marketable form, to make usable, marketable, or the like.

(354) **Production** shall mean the making of goods available for human wants.

(355) **Production Site** shall mean, as it relates to Oil and Gas Operations, the surface area immediately surrounding proposed or existing production equipment,

or other accessory equipment necessary for oil and gas production activities, including the fenced, walled, or enclosed area of the facility during the production phase, exclusive of transmission and gathering pipelines.

(356) **Property Line** shall mean the legally described boundary line that indicates the limits of a parcel, tract, lot, or block for the purpose of delineating ownership and setback requirements.

(357) **Property (or Home) Owners' Association** shall mean a private, non-profit corporation or property owners for the purpose of owning, operating, and maintaining various common properties and facilities (except that as this definition relates to a condominium project, the property owners' association does not own the common property/facilities, it operates and maintains them on behalf of the condominium owners).

(358) **Public** shall mean for the benefit of, or devoted to, the people as a whole or the community at large.

(359) **Public Building** shall mean any building held, used, or controlled exclusively for public purposes by any governmental entity, without reference to the ownership of the building or of the realty upon which it is situated.

(360) **Public Hearing** shall mean a meeting that is noticed in accordance with the terms of this land development code and at which the public is given an opportunity to speak.

(361) **Public Improvements** shall mean rights-of-way, easements, access rights, and physical improvements that are accepted by the city in writing and that become the responsibility of the city for ownership, maintenance, and repair. Unless otherwise provided by this land development code, public improvements include but are not limited to the following: curb and gutter, asphalt pavement, concrete pavement, streets of all types, alleys, survey monuments, pavement striping, sidewalks, pedestrian/bike paths and trails, landscaping, traffic signals, street lights, highways, greenways, medians, bridges, acceleration and deceleration lanes, culverts, storm drainage facilities including necessary structures, channels, and all other improvements, which upon acceptance by the city, are intended to be for the use of and enjoyment of the public.

(362) **Public Notice** shall mean the advertisement in a newspaper, posting of the property, and/or the mailing of written notice.

(363) **Public Sewer and Water Facilities** shall mean those sewer and water facilities of a municipality or special district authorized by Title 32 of the Colorado Revised Statutes.

(364) **Public Utility** shall mean improvements, which include gas lines, water mains, sanitary storm sewerage, electrical cables and lines, telephone cables and lines, telecommunication facilities and lines, or other facilities of a similar nature.

(365) **Public Water Supply Well** shall mean a well or system of wells that provide water via piping or other constructed conveyances for human consumption to at least 15 service connections or serves an average of at least 25 people for at least 60 days each year.

(366) **PUD** - see Planned Unit Development.

(367) **PUD Concept Schematic** shall mean a generalized land use or site plan for an area proposed to be included within a PUD district.

(368) **PUD Permit** shall mean the permit which contains a detailed plan for either all or a portion of a planned unit development which authorizes the applicant to apply for a building permit.

(369) **PUD Zone Document** shall mean the PUD land use application which establishes entitlements for property including allowable land use and bulk standards.

(370) **Railroad Right-of-Way** shall mean a strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

(371) **Railroad Yard** shall mean an area used for storage by an establishment engaged in rail services.

(372) **Reclamation** shall mean, as it relates to Oil and Gas Operations, the process of returning or restoring the surface of disturbed land as nearly as practicable to its condition prior to the commencement of oil and gas operations or as required by Operator's approved interim and final reclamation plans. .

(373) **Recreation or Amusement, Private** shall mean any use or development providing amusement, pleasure, or sport, which is not operated or owned by a governmental entity and is operated or carried on primarily for financial gain.

(374) **Recreation or Amusement, Public** shall mean any use or development providing amusement, pleasure, or sport, which is owned or operated by a governmental entity.

(375) **Recreational Vehicle** shall mean a vehicle that is:

(a) Built on a single chassis;

(b) Four hundred-square feet or less when measured at the largest horizontal projections;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(376) **Refuse Transfer Facilities** shall mean any facility that accepts garbage, trash, rubbish, debris and other types of discarded or waste materials for the purposes of collection, temporary storage, or transfer to other locations for disposal.

(377) **Religious Institution** shall mean a use category comprised of structures or places in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group. Accessory uses include school facilities, parking, caretaker's housing, pastor's housing, and group living facilities such as convents. Examples include churches, temples, synagogues, and mosques.

(378)

(379) **Rental Services** shall mean a retail establishment that rents to the general public merchandise, such as furniture, appliances, and similar goods that are housed inside a building.

(380) **Repair** shall mean the non-routine process of restoring by replacing a part or putting together what is torn or broken. This term shall also mean the non-routine process of restoring to a sound and serviceable state through correction of a specific failure or unserviceable condition.

(381) **Repair and Normal Maintenance** shall mean with regard to a nonconforming structure or portion or a structure containing a nonconforming use, work done during any 1-year period on ordinary repairs, or on repair and replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 10 percent of the current replacement cost of the nonconforming structure, or portion of structure, and provided that the cubic content existing when it became nonconforming is not increased.

(382) **Replacement Mobile Home** shall mean a mobile home unit entering any mobile home park within the city; and any mobile home that is moved to another space within the mobile home park.

(383) **Research, Development, Testing Laboratories** shall mean research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing or sale of products. Such uses shall not violate any odor,

dust, smoke, gas, noise, radiation, vibration, or similar pollution standards as specified herein.

(384) **Residential, Multi-Family** shall mean a dwelling or dwellings, or portion thereof, designed for or occupied by three or more families living independently of each other. Multi-family dwelling includes townhouse dwellings, and condominium or apartment buildings in which the individual dwelling units are typically located one over the other.

(385) **Residential, Single-Family** shall refer to single-family attached and single-family detached dwellings, collectively.

(386) **Residential, Single-Family Attached** shall mean a dwelling containing two attached dwelling units, located side-by-side and totally separated from each other by an unpierced wall extending from ground to roof designed exclusively for occupancy by two families living independently of each other.

(387) **Residential, Single-Family Detached** shall mean a detached (free-standing and surrounded on all sides by open areas or yards) dwelling designed exclusively for occupancy by one family.

(388) **Restaurant** shall mean an establishment where the principal business is the sale of food and beverages in a ready-to-consume state where fermented malt beverages, malt, special malt, and vinous and spirituous liquors may be produced on the premises as an accessory use. See also Fast-Food Restaurant.

(389) **Retail Establishment** shall mean establishments that sell, lease, or rent consumer, home, and business goods, but excluding merchandise/retail uses classified or defined more specifically in this land development code (e.g., convenience stores and restaurants). Typical uses include department stores, furniture stores, clothing stores, and establishments providing the following products or services: antiques, art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, hardware, home improvements, household products, jewelry, pet food, pharmaceuticals, printed material, sporting goods, stationary, and videos; and new automotive parts and accessories (excluding service and installation).

(390) **Retail Marijuana Code** means title 12, article 43.4 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.

(391) **Retail Marijuana Cultivation Facility** shall have the meaning ascribed to it by state law.

(392) **Retail Marijuana Product Manufacturer** shall have the meaning ascribed to it by state law.

(393) **Retail Marijuana Store** shall have the meaning ascribed to it by state law.

(394) **Retail Marijuana Testing Facility** shall have the meaning ascribed to it by state law.

(395) **Retaining Wall** shall mean a structure designed to resist the lateral displacement of soil or other materials in order to protect property and/or prevent erosion.

(396) **Right-of-Way** shall mean land devoted to or over which people and goods have the right to pass or travel (e.g., roads, streets, pedestrian walkways, bicycle paths and alleys).

(397) **Road Impact Fee Study** shall mean a study prepared for and on behalf of the city to determine road impacts generated by new development.

(398) **Roadside Stand** shall mean a temporary structure used primarily to sell products produced on the property.

(399) **Roadway** shall mean that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, including the shoulder.

(400) **Salvage Yard** shall mean a building, structure, parcel of land, or portion thereof, where two or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation; or any land, building, or structure used for wrecking or storing of such motor vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition.

(401) **School, Commercial** shall mean a structure or group of structures where instruction is given to pupils in arts, religion, crafts, philosophy, or trades, and is operated as a commercial enterprise.

(402) **Scrap Yard** shall mean an establishment where materials are collected in bulk quantities for use as raw material to produce new items at other locations, or dismantled for wholesale use or direct sale to the public. This classification excludes collection of household recyclable materials and vehicle salvage.

(403) **Scrap Tire** means a tire that is no longer used for its original purpose.

(404) **Screening** shall mean a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

(405) **Sediment Control** shall mean BMPs that prevent eroded sediment from leaving the site.

(406) **Seismic Operations** shall mean, as it relates to Oil and Gas Operations, all activities associated with acquisition of seismic data including but not limited to surveying, shothole drilling, recording, shothole plugging and reclamation.

(407) **Semi-Trailers** - see Trailer

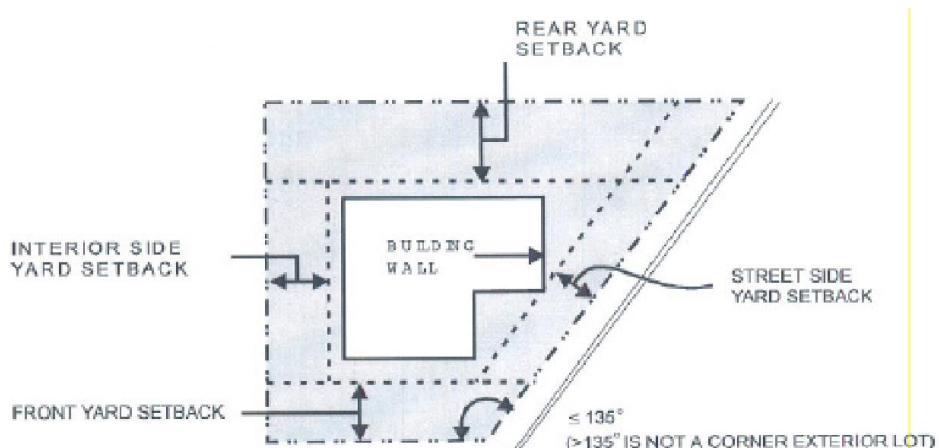
(408)

(409) **Service Lateral** shall mean the electrical, communications, cable television wiring, coaxial, or fiber optic or other utility line connections between the provider's distribution system and system termination at the point of consumer use.

(410) **Service Station** shall mean any building, land area, or other premises used for the retail dispensing or sales of vehicular fuels; minor towing, servicing, and repair of automobiles and light trucks; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories. Body and fender work, transmission work, engine overhaul work, or heavy truck or vehicle repair are excluded from this use. If a use that fits this definition also includes the sale of ready-to-eat food products (not intended for on-premises consumption), groceries and sundries, or 3.2 beer, such use shall be classified as a convenience store as provided above.

(411) **Setback** shall mean the distance from a lot line to the closest projection of a building or structure along such line.

Figure XI-5. Setback Example



(412) **Shade Structure** shall mean gazebos, arbors, or pergolas that are not attached to a principal structure but may be attached to an accessory structure. Shade structure shall not include carports.

(413) **Shade Tree** shall mean a tree, over 15- to 20-feet tall at maturity, that is deciduous and planted for its wider canopy, higher bottom-branch scaffold and shading value, and does not include conifers or evergreens of any kind.

(414) **Shrub** shall mean a long-lived deciduous, evergreen, or coniferous woody plant, typically multi-stemmed and having a mature height of between 3 and 15 feet and does not include perennials.

(415) **Sidewalk** shall mean that portion of a public right-of-way adjacent to lateral property lines intended for the use of pedestrians.

(416)

(417) **Sight Triangle** shall mean a triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

(418) **Sign** shall mean any advertising device, announcement, direction, or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any painted, lettered, pictured, figured or colored material on any building, structure or surface.

(419) **Sign, A-Frame or Sandwich Board** shall mean a non-wheeled movable advertising or business ground side constructed in such a manner as to form an "A" or a tent-like shape, hinged or not hinged at the top, with each angular face held at an appropriate distance by a supporting member. These signs shall not be secured or attached to the ground or surface upon which it is located.

(420) **Sign, Awning** shall mean a sign painted or printed on and attached flat against the surface of an awning.

(421) **Sign, Digital Display** shall mean a sign with the presentation of pictorials, videos, and graphics displayed in a single or progression of frames which may give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns, bands of light, or expanding or contracting shapes.

(422) **Sign, Electronic Reader Board** shall mean a sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means. These signs contain text and/or numbers only. No images, pictures, or videos are allowed.

(423) **Sign Face** shall mean the surface of a sign upon, against, or through which the advertising message is displayed or illustrated, excluding the necessary supports or uprights on which such sign is placed.

(424) **Sign, Free-Standing** shall mean any single- or double-faced sign affixed to a free standing supporting pole, or poles, or structure, imbedded in, and extending upward from the ground.

(425) **Sign, Identification** shall mean a sign indicating the name of an allowed use, the name or address of a building, or the name of the management thereof.

(426) **Sign, Ideological** shall mean a sign which does not propose a commercial transaction but, instead, involves only the expression of ideas or beliefs.

(427) **Sign, Illuminated** shall mean a sign designed to give forth any artificial light or reflect such light from an artificial source.

(428) **Sign, Informational** shall mean an on-premise sign, which gives direction, instructions, or facility information and does not contain the name or logo of an establishment or contain any advertising copy, e.g. parking, exit, or entrance signs.

(429) **Sign, Instructional** shall mean a sign conveying instructions with respect to the use of the premises which are reasonably related to, and necessary for, the intended use of the premises, for purposes of informing persons going onto the premises of matters relating to access and use, such as a sign designating the entrance to, or exit from a parking area, a trespassing sign, a danger sign, and/or any similar sign.

(430) **Sign, Low-Profile** shall mean any single- or double-faced sign affixed to the ground, of which all the structural supporting members must be concealed.

(431) **Sign, Off-Premise** shall mean a sign advertising goods or services not provided on the property upon which the sign is located.

(432) **Sign, Real Estate** shall mean a sign advertising the sale, rental, or lease of the premises on which it is maintained.

(433) **Sign, Temporary** shall mean any sign intended and used for temporary public notification and/or promotion of activities which generally include, but are not limited to: open houses, public benefits, grand openings, special sales/promotions, development projects (project signs), and similar activities of a temporary nature.

(434) **Site Plan** shall mean the proposed layout of a lot showing all elements of the site development as well as utility and drainage lines, and existing and proposed buildings, structures, trees, and vegetation.

(435) **Site Specific Development Plan** shall mean any of the following applications, if designated by the applicant as a site specific development plan for the establishment of vested property rights according to C.R.S. § 24-68-103, when approved by the city. The site-specific development plan shall describe with reasonable certainty the type and intensity of use proposed for a specific parcel or parcels of property. Site specific development plans include the following:

- (a) Final plats;
- (b) Development plans; or
- (c) Final PUD development permits.

(436) **Small cell** shall include “small cell facility” and shall be defined by C.R.S. 29-27-402(4) as currently exists and as may be amended from time to time.

(437) **Small Wind Energy Conversion System (Windmill)** shall mean any mechanism, including blades, rotors, or other moving surfaces, designed for the purpose of converting wind energy into mechanical or electrical power. For purposes of this land development code, also included are towers, tower bases, guy wires, and any other structures necessary for installation of a small wind energy conversion system.

(438) **Solar Energy Collection System** shall mean any mechanical device or structure used to collect, transfer, and/or store solar radiant energy generally including, but not limited to, the following: solar collectors, Trombe walls, greenhouses, or other devices, but not including south facing windows in which solar radiant energy does not reach an acceptable storage medium.

(439) **Solid Waste** shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, air pollution control facility, or other discarded material; including solid, liquid, semisolid, or contained gaseous material resulting from industrial operations, commercial operations, or community activities. Solid waste does not include any solid or dissolved materials in domestic sewage, or agricultural wastes, or solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under the provisions of the Colorado Water Quality Control Act, Title 25, Article 8, C.R.S. or materials handled at facilities licensed pursuant to the provisions on Radiation Control Act in Title 25, Article 11, C.R.S. Solid Waste does not include: (1) materials handled at facilities licensed pursuant to the provisions on radiation control in Article 11 of Title 25, C.R.S.; (2) excluded scrap metal that is being recycled; or (3) shredded circuit boards that are being recycled.

(440) **Solid Waste Disposal** shall mean the storage, treatment, utilization, processing, or final disposal of solid wastes.

(441) **Solid Waste Disposal Site** shall mean the location at which the deposit and final treatment of solid wastes occur.

(442) **Special Flood Hazard Area** shall mean that area designated on the flood insurance rate map as subject to a one percent or greater chance of flooding in any given year.

(443) **Stabilization** shall mean the use of practices that prevent exposed soil from eroding.

(444) **Standard Zoning Districts** shall mean the following zoning districts, and shall be collectively referred to as standard zoning districts.

- (a) AG
- (b) R-1
- (c) R-2
- (d) R-3
- (e) R-4
- (f) R-U
- (g) C-1
- (h) C-2
- (i) C-3
- (j) MU-1
- (k) I-1
- (l) I-1S
- (m) I-2
- (n) I-3
- (o) PUBLIC
- (p) MHP

(445) **Stone** shall mean any rock material that may fall under further sub-classification such as river rock, cobble, flagstone, boulders, and others contained in the Approved Plant List and Landscaping Specifications document. Any stone material used in landscape applications must be of at least 3/4-inch diameter or

cross-section. Squeegee and road-base are not acceptable materials within the definition of stone.

(446) **Storm Drainage System** shall mean facilities by which stormwater is collected or conveyed including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, or other drainage structures.

(447) **Stormwater** shall mean any runoff consisting entirely of water from any form of natural precipitation.

(448) **Stormwater Management Plan (SWMP)** shall mean a document which described the best management practices and activities to be implemented by a person or business to identify sources of discharges to stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable.

(449) **Street** shall mean a dedicated public or non-dedicated private thoroughfare that affords the principal means of access to abutting property.

(450) **Structure** shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(451) **Subdivision** shall mean the division by plat of a lot, tract, or parcel of land. The term shall also include and refer to any division of land subdivided or platted prior to the effective date of this land development code.

(452) **Substance Abuse Treatment Facility, Inpatient Residential** shall mean structures and land used for the treatment of alcohol or other drug abuse where one or more patients are provided with care, meals, and lodging.

(453) **Substance Abuse Treatment Facility, Outpatient Clinic** shall mean structures and land used for the treatment of alcohol or other drug abuse where neither meals nor lodging is provided.

(454) **Substantial Improvement** shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications identified by the building official and that are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a historic structure, provide that the alteration will not preclude the structure's continued designation as a historic structure.

(455) **Substation** shall mean any facility designed to provide switching, voltage transformation, or voltage control required for the transmission of electricity at 115 kilovolts or more, and any addition thereto increasing the existing design capacity.

(456) **Subsurface Disposal Facility** shall mean a facility or system for disposing of water or other oil field wastes into a subsurface reservoir or reservoirs.

(457) **Surety** shall mean any form of security including cash deposit, surety bond, property, or instrument of credit in an amount and form satisfactory to the Director.

(458) **Surface Use Agreement** shall mean an agreement or contract between an Operator and the owner of real property addressing property interests or property use in relation to a specific location for a Well, Multi-Well Site, Production Facility, pipeline or any other Oil and Gas Facility.

(459) **Survey Monument** shall mean metal pin monuments located in the ground at all points on streets, alleys, or boundary lines where there is a change in direction or curvature.

(460) **Tank** shall mean, as it relates to Oil and Gas Operations, a stationary vessel that is used to contain fluids, constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.

(461) **Tasting Room** shall mean an area devoted to the sampling, and sales thereof, of wine or beer produced on or off premises.

(462) **Telecommunication Facility** shall mean any facility established for the purpose of providing wireless transmission of voice, data, images or other information including but not limited to cellular telephone service, personal communication service, and paging service for any reason other than communicating with employees of that particular business. A telecommunication facility can consist of one or more antennas and telecommunication accessory equipment.

(463) **Telecommunication Facility, Accessory Equipment** shall mean equipment, including buildings and cabinets, used to protect and enable operation of radio switching equipment, back-up power and other devices, but not including antennas that are necessary for the operation of a telecommunication facility.

(464) **Telecommunication Facility, Concealed** shall mean any monopole or building mounted telecommunications facility that blends into the surrounding environment in a visually unobtrusive manner through disguise as a non-telecommunications structure or architectural feature.

(465) **Temporary** shall mean a period of time under one year, unless otherwise specified in this land development code.

(466) **Temporary Use** shall mean a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

(467) **Tire Store** shall mean a business where the principal use is the sale or installation of new, used, or retread tires or tubes. Any land or structures with a primary or principal use of tire collection, reduction, or transfer shall not be considered a tire store.

(468) **Tower** shall mean any structure that is designed and considered primarily for the purpose of supporting one or more antennas, including self supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

(469) **Tower, Lattice** shall mean a tower or structure designed and constructed primarily to support antenna or antennas and comprised of interconnected poles, pipes, bars, beams, strips, wires or cross-members. A lattice tower shall include any type or form of tower that incorporates guy or supporting wires. A lattice tower is not a monopole tower.

(470) **Towing services** shall mean the business of transporting, towing, or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

(471) **Townhouse** shall mean a specific type of multi-family dwelling in which individual dwelling units are attached by one or more party walls, with the habitable spaces of different dwelling units arranged on a side-by-side, rather than a stacked, configuration. For the purposes of this land development code, a single-family attached dwelling is not considered a townhouse.

(472) **Tractor Trailer** shall mean the vehicle formed by combining a trailer and a truck-tractor.

(473) **Tract** shall mean a unit of subdivided land not occupied or designed to be occupied by a primary building, such as open space or drainage.

(474) **Trail** shall mean a publicly or privately owned or maintained trail/path system open to the public, intended for non-motorized transportation such as walking, jogging or biking, including trailheads. Trailheads may include parking lots, drinking fountains, restrooms, picnic shelters, and related signage and monumentation.

(475) **Trailer (including semi-trailers)** shall mean a non-motorized vehicle that is pulled by a motorized vehicle for the purpose of transporting equipment, commodities, or for similar purposes.

(476) **Transfer Facility** shall mean a facility or site at which the exchange or deposit of material is made for ultimate transfer and disposal elsewhere.

(477) **Transportation Terminals** shall mean a facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Unlike Distribution Centers, these establishments commonly utilize a cross-dock facility and may also include the accessory uses of warehouse, storage or parking or trucks awaiting cargo, as well as facilities for the light servicing of trucks. Included in this definition would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Postal Service, other than a traditional post office.

(478) **Treatment Facilities** shall mean, as it relates to Oil and Gas Operations, any plant, equipment or other works used for the purposes of treating, separating or stabilizing any substance produced from a well.

(479) **Tree Lawn** shall mean a landscaped strip of land located between the curb line, or lateral line of the roadway, and the front edge of a sidewalk.

(480) **Truck** shall mean a motorized vehicle of greater than one-ton carrying capacity with two or more axles, including tractor-trailer combinations and buses; or any vehicle equipped with a body designed to carry property over the public highways and generally and commonly used for such transport of cargo rather than passengers. This term shall also include truck-tractors, trailers, semi-trailers when used in combination, but excludes two-axle, four-tired vehicles that may be classified as a truck for registration purposes, but which have operating characteristics similar to those of a passenger car.

(481) **Truck Repair** shall mean the process or operation of repairing trucks, including major work on engines or transmissions.

(482) **Truck Stop** shall mean any property on which a business involving the maintenance, servicing, storage or repair of commercial vehicles of greater than 15,000 gross vehicle weight (GVW) is conducted, including the dispensing of motor fuel or other petroleum products directly into motor vehicles; and the sale of accessories or equipment for such commercial vehicles. A truck stop may also include overnight accommodations and restaurant facilities.

(483) **Truck, Trailer Sales and Service** shall mean an establishment or area for the purpose of trailer and truck sales, service, and repair.

(484) **Truck-Tractors** shall mean a motorized vehicle with two or more axles that is used to pull a trailer for purposes of carrying property over the public highways

and generally and commonly used for such transport of cargo rather than passengers. Truck-tractors may be operated in combination with, or separate from, a trailer.

(485) **Turf-Grass** shall mean those types of grasses that do not grow in clumps but, rather, spread naturally to form a continuous sod mat. Such are the grasses customarily used in lawn applications, typically available commercially in sod form, being tolerant of foot traffic, and presenting a finished, maintained appearance with proper care.

(486)

(487) **Underlying Zone District** shall mean a base zone district that is affected by an overlay district.

(488) **Unstable Materials** shall mean materials, other than explosives, which in the pure state or as commercially-produced will vigorously polymerize, decompose, condense, or become self-reactive and undergo other violent chemical changes, including explosion, when exposed to heat, friction or shock, or in the absence of an inhibitor or in the presence of contaminants or in contact with non-compatible materials.

(489) **Use** shall mean any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

(490) **Use-By-Permit** shall mean a use that does not qualify as a use-by-right on a particular piece of property but that the board of adjustment, in its discretion, approves or may approve in accordance with the terms of this land development code. Uses-by-permit are typically issued for uses that may have unique or widely varying operating characteristics, may have potential operational or other impacts on adjacent properties, or may have unusual site development demands.

(491) **Use-By-Right** shall mean a use specifically permitted in a standard zoning district. As long as the use is carried on in the district in which it is characterized as a use-by-right, the use is not subject to discretionary review by the city and may be developed subject only to the conditions shown in the use table (section 21-5200) and a development plan review, if applicable.

(492) **Use Variance** shall mean a variance authorizing the property to be used for a purpose prohibited by this land development code, as distinguished from a variance in lot area, yard size, building height, or other dimensional bulk requirements. Use variances are prohibited.

(493) **Utility Lines** shall mean all electrical, communication, cable television wiring, coaxial, fiber optic, water, sewer, natural gas, or other such physical system connections.

(494) **Vacation** shall mean the termination of or termination of interest in an easement, right-of-way, or public dedication of land.

(495) **Variance** shall mean a deviation from specific standards contained in this land development code.

(496) **Vehicle/Equipment Sales and Rentals** shall mean repair of automobiles, trucks, motorcycles, mobile homes, recreational vehicles, or boards, including the sale, installation, and servicing of related equipment and parts. This use includes auto repair shops, body and fender shops, wheel and brake shops, and tire sales and installation. This use excludes junk yards, vehicle dismantling or salvage, and tire retreading or recapping.

(497) **Vehicle Repair, Major** shall mean the complete repair of automobiles, motorcycles, and light trucks that may include body repair, fender work, or engine repair. In no case shall major vehicle repair include repair of heavy equipment or trucks.

(498) **Vehicle Repair, Minor** shall mean the limited repair of automobiles, motorcycles, and light trucks that may include tune-ups, brakes, mufflers, automobile glass replacement, and other minor repair customarily done in service stations, but in no case shall minor vehicle repair include auto/truck body and fender work or repair of heavy equipment or trucks.

(499) **Vehicle Storage** shall mean the storage of parking tow-aways, impound yards, and storage lots for automobiles, trucks, buses, and recreational vehicles. Vehicle storage includes only the storage of operable vehicles.

(500) **Vertical Growing Structure** shall mean a permanent structure used to encourage the vertical growing of plants. Traditional examples include arbors and trellis.

(501) **Vested Property Rights** shall mean the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

(502) **Veterinarian Clinic or Office** shall mean an establishment that provides medical treatment and care to animals, and which may include temporary or overnight boarding of animals that are recuperating from treatment.

(503) **Wastewater** shall mean any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(504) **Watchman's Quarters, Night** shall mean a dwelling unit located on the same premises as a principal use, which unit is occupied or intended for occupancy by a caretaker employee or owner of said establishment.

(505) **Water Bodies** shall mean reservoirs, lakes, perennial or seasonally flowing rivers, streams, creeks, springs, irrigation ditches, aquifers, and wetlands.

(506) **Watercourse** shall mean any body of water, including but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the city.

(507) **Water Surface Elevation** shall mean the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(508) **Waterway** shall mean a channel that directs surface runoff to a watercourse or to the public storm drain.

(509) **Weed** shall mean any herbaceous plant which, due to height, smell, appearance, or injurious nature, has a blighting influence.

(510) **Welding or Machine Shop** shall mean a workshop where machines, machine parts, or other metal products are fabricated. Typical uses include machine shops, welding shops, and sheet metal shops.

(511) **Well** shall mean, as it relates to Oil and Gas Operations, an Oil or Gas well for purposes of exploration and production.

(512) **Well Site** shall mean, as it relates to Oil and Gas Operations, a definable area where an Operator has disturbed or intends to disturb the land surface in order to locate an Oil and Gas well facility, and includes a Production Site.

(513) **Wetlands** shall mean those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(514) **Wholesale Establishments** shall mean a use engaged in enclosed wholesale of manufactured products, supplies, and equipment, including accessory offices and showrooms. Products may be picked up on-site or delivered to the customer. Other accessory uses may include product repair, parking, minor fabrication services, and repackaging of goods.

(515) **Winery** shall mean an establishment that manufactures vinous liquors which may include a restaurant or samples venue that sells the winery's products, including retail sales.

(516) **Xeriscape** shall mean water conservation through creative landscape design that reduces water consumption, landscape maintenance and the use of fertilizers and pesticides. Principles associated with xeriscaping include appropriate planning and design, soil improvements, efficient irrigation, practical turf areas, appropriate plant selection, use of mulches and maintenance.

(517) **Yard** shall mean a space on the same lot or lots with a principal building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky

(518) **Yard, Front** shall mean a yard extending across the full width of a lot and between the front lot line and the nearest wall of any principal building on the lot.

(519) **Yard, Rear** shall mean a yard extending across the full width of a lot and between the rear lot line and nearest wall of any principal building on the lot.

(520) **Yard, Side** shall mean a yard extending between the front yard and the rear yard and between a side lot line and the nearest main wall of any principal building on the lot.

(521) **Yard Sale** shall mean an infrequent sale of used goods and material occurring on a residential yard or in a residential garage. This term shall also include that which is known as a garage sale or estate sale.

(522) **Zoning District** shall mean an area or areas within the limits of the city for which the regulations and requirements governing use, lot, and bulk of building and premises are uniform.

(523) **6409(a) Facility** shall mean any telecommunication facility associated with an eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station pursuant to section 6409(a) of the Spectrum Act, as that section is interpreted, applied, or revised in accordance with federal law.

Section amended by Ord. 1785, June 2010

Section amended by Ord. 1854, April 2011

Section amended by Ord. 1887, July 2012

Section amended by Ord. 1897, July 2012

Section amended by Ord. 1891, August 2012

Section amended by Ord. 1948, April 2013

Section amended by Ord. 1992, March 2014

Section amended by Ord. 2020, February 2015

Section amended by Ord. 2048, June 2015

Section amended by Ord. 2068, January 2016

Section amended by Ord. 2078, April 2016

Section amended by Ord. 2158, December 2018

Section amended by Ord. 2186, December 2018

Section amended by Ord. 2190, December 2018

Section amended by Ord. 2203, May 2019

BEST MANAGEMENT PRACTICES FOR NEW WELL SITES IN COMMERCE CITY

(“BMP Document”)

A. *Introduction.*

1. This BMP Document, and each Best Management Practice (each, a “BMP”), are enacted by the City Council of the City of Commerce City (“City”) pursuant to the authority established in Section 21-3216 of the City’s Land Development Code (“LDC”) and any enabling and amending ordinance and shall be enforced as set forth in the LDC, such ordinances, and the Commerce City Revised Municipal Code (“Code”). This BMP Document and each BMP is reasonable and necessary to achieve the purposes stated herein.
2. This BMP Document, and each BMP, is enacted to protect public health, safety, and welfare and the environment by regulating specific areas of oil and gas operations within the City. These BMPs establish **minimum** standards and may be exceeded voluntarily or as determined by the City in the processing of an Oil and Gas Permit, depending on the nature of the proposed Operations and location.
3. Where used in this BMP Document, the term “practicable” shall mean, in the Director’s opinion, that: (a) there is no technology reasonably available to conduct the proposed Operations in compliance with the BMP and waiver of the provision will not have a significant adverse effect on public health, safety, welfare, or the environment; (b) an alternative approach not contemplated by the BMP is demonstrated to provide a level of protection of public health, safety, welfare, and the environment that would be at least equivalent to the BMP; or (c) application of the BMP would create an undue hardship because of unique physical circumstances or conditions existing on or near the site of the Oil and Gas Facility, which may include without limitation topographical conditions, shape or dimension of the site, or inadequate public infrastructure, provided adequate protection of public health, safety, welfare, and the environment will be ensured through other means. Except where the term “practicable” is used, modifications of these BMPs shall not be permitted.
4. All terms used herein shall have the meaning set forth in the LDC, the Code, unless a different definition is stated in this document; otherwise, terms and abbreviations shall have their generally-accepted meaning as determined by reference to industry and regulatory standards.
5. Each BMP is an integral part of this BMP Document and the City’s regulations of oil and gas development. Notwithstanding the foregoing, if any BMP or a part thereof (or any application thereof) is found to be invalid by a court, such invalidity shall not affect the remaining parts of the BMP or this BMP Document which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determining by the court to be inoperable. To this end, BMPs are declared to be severable.

B. *Summary of Revisions. [Reserved]*

C. *Air Quality.* Operator shall comply with these air quality standards to: protect human health and safety; prevent injury to plant and animal life; prevent damage to property; prevent unreasonable interference with the public welfare; preserve visibility; and protect scenic, aesthetic, and historic values in the City. These standards are established to prevent or mitigate the degradation of the City’s air and visibility resource; prevent odors and other air pollution problems; and to improve the quality of life and the general welfare in the City.

1. *Minimization of Emissions.*

- a. Operator shall use electric equipment for permanent production equipment, such as electric compressors and pneumatic valves, and use line power as detailed in this BMP Document.
- b. Air emissions from the Operations shall be, at a minimum, in compliance with the permit and control provisions of the Colorado Air Quality Control Program, C.R.S. § 25-7-101 et seq. as may be amended.
- c. All fossil-fuel powered engines used for drilling and completions on Well Sites shall employ the latest emission-reduction technologies that are economically practicable.
- d. Operator shall comply with the transportation and circulation section addressing traffic provisions as detailed in this BMP Document.
- e. Operator shall utilize pipelines as detailed in this BMP Document.
- f. Operator shall, through a manufacture-test or other recognized data analysis method, demonstrate hydrocarbon destruction or control efficiency that complies with a design destruction efficiency of 98% or better.
- g. Operator shall use no-bleed continuous and intermittent pneumatic devices. This requirement can be met by replacing natural gas with electricity or instrument air, or routing the discharge emissions to a closed loop-system or process.
- h. Any flare, auto ignition system, recorder, vapor recovery device or other equipment used to meet the hydrocarbon destruction or control efficiency requirement shall be installed, calibrated, operated, and maintained in accordance with the manufacturer's recommendations, instructions, and operating manuals.
- i. Operators shall not use glycol dehydrators or desiccant gas processing dehydrators.
- j. Compressor engines are prohibited within the City limits except for wellhead, sales, and gas lift compressors, air and/or gas gathering compressors which shall be located on the Well Sites. Operator shall use enclosures of compressor engines where necessary to provide visual and/or noise mitigation. Any compressors that are used as part of the vapor recovery units (air pollution controls) will be limited to 6-8 small engine drive units. VRU compressors will be installed with sound walls to buffer noise.
- k. Operator shall comply with odor requirements, as established by COGCC and CDPHE regulations, year round.
- l. Operator's Well Site and equipment design shall reduce emissions of associated gas from hybrid gas-oil wells (i.e., gas that is co-produced from a well that primarily produces oil).
- m. Operator shall use current best management practices during liquids unloading (i.e. maintenance activities to remove liquids from existing wells that are inhibiting production), designed to minimize hydrocarbon emissions to the greatest extent practicable. This may require practices and technology beyond those specifically listed in this BMP Document.
- n. Operator shall reduce emissions from oil and gas pipeline maintenance activities such as pigging or blowdowns. Any maintenance activity involving the intentional venting of gas from a well tank, compressor or pipeline, beyond routine pipeline maintenance activity and pigging, requires forty eight (48) hour advance written notice to the City of such proposed venting. Such notice shall identify the

duration and nature of the venting event, a description as to why venting is necessary, a description of what vapors will likely be vented, what steps will be taken to limit the duration of venting, and what steps Operator proposes to undertake to minimize similar events in the future. If venting is required, or if accidental venting occurs, Operator shall provide such notice to the City of such event as soon as possible, but in no event longer than 24 hours from the beginning of the event, including without limitation the information listed above, an explanation as to the cause, and how the event will be avoided in the future; notices shall be supplemented as additional information becomes available.

- o. Operator shall eliminate or minimize flaring to the maximum extent practicable
- p. Operator shall comply with dust suppression techniques in this BMP Document.
- q. Operator shall comply with odor requirements in this BMP Document.
- r. Operator shall consolidate product treatment and storage facilities within a Well Site.
- s. Operator shall centralize compression facilities within a Well Site.
- t. Operator shall use telemetric control and monitoring systems, including surveillance monitors, to detect when pilot lights on control devices are extinguished.
- u. Operator shall comply with all CDPHE rules and regulations, including air permits, if any, and all OSHA work practice requirements with respect to benzene.
- v. Operator shall participate in Natural Gas STAR program or other equivalent voluntary programs to encourage innovation in pollution control at each Well Site.
- w. Operator shall use pressure-suitable separator and vapor recovery unit (VRU) where applicable.
- x. Operator shall construct pipeline infrastructure prior to the Production Phase.
- y. For hydraulic fracturing pumps, Operator shall use Tier 4 or better engines.

2. *Leak Detection and Repair.*

- a. Operator shall develop and maintain an acceptable leak detection and repair (“LDAR”) program as required by CDPHE using modern leak detection technologies such as infrared (“IR”) cameras for equipment used at a Well Site.
- b. At least once per year, the Operator shall notify the City ten (10) business days prior to an LDAR inspection of its facilities to provide the City the opportunity to observe the inspection.
- c. For a five (5) year period beginning with the start of the Production Phase per well location at the each Well Site, Operator shall conduct quarterly IR camera monitoring of all equipment at each Well Site.
- d. Thereafter, Operator shall conduct IR camera monitoring at least twice annually until all the wells on the Well Site are plugged and abandoned.
- e. Except when a circumstance would necessitate an immediate repair, Operator must repair leaks as soon as possible. If more than 48-hours repair time is needed after a leak is discovered, an explanation of why more time is required must be submitted to the City.

- f. Operator shall conduct continuous pressure monitoring to detect leaks.
- 3. *Ambient Air Modeling.* Operator shall provide access to the Well Sites to the City's designated personnel or agent to allow air sampling to occur, without condition. Operator will provide a regionally based air modeling and emissions inventory.
- 4. *Ozone Air Quality Action Days.*
 - a. On Air Quality Action Day advisories posted by the CDPHE for the Front Range Area, the Operator shall implement CDPHE-suggested air emission reduction measures, including the following, for the duration of an Air Quality Action Day advisory:
 - i. Minimize vehicle and engine idling;
 - ii. Reduce truck traffic and worker traffic;
 - iii. Delay vehicle refueling;
 - iv. Suspend or delay use of fossil fuel powered ancillary equipment; and
 - v. Postpone construction activities, if practicable.
 - b. Within 30 days following the conclusion of each annual Air Quality Action Day season, Operator must submit a report to the City that details which measures it implemented during any Action Day advisories.
- 5. *Electric Equipment.*
 - a. All permanent production equipment, such as compressors, motors and artificial lift equipment, shall utilize electric line power to mitigate noise and to reduce emissions.
 - b. All drilling rigs capable of drilling to Total Depth (TD) on a well shall be required to utilize electric line power unless the Director waives this BMP in writing for a specific location or for any well not located within 2000' of a Residential Building Unit or not within 2000' of a High Occupancy Structure.
 - c. At any location where Operator is not required by this BMP to utilize line power for drilling, Operator will utilize line power if available in sufficient quantity from the utility provider.
 - d. At any location where line power is not used for drilling, Operator shall provide to City at City's request the source(s) used for power.
 - e. Operator shall minimize use of diesel generators for temporary power, including the use of liquified or compressed natural gas for power generation to further reduce emissions and noise.
- 6. *Exhaust.* The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the nearest occupied building.
- 7. *Flares and Combustion Devices.* To the extent flares, thermal oxidizers, or combustion devices are utilized, all such flares shall be designed and operated as follows:

- a. Flares shall be fired with natural gas and designed to operate with a 98% of higher hydrocarbon destruction efficiency.
- b. Flares shall be designed and operated in a manner that will ensure no visible emissions during normal operation. Visible emissions means observations of smoke for any period or periods of duration greater than or equal to one (1) minute in any fifteen (15) minute period during normal operation, pursuant to EPA Method 22. Visible emissions do not include radiant energy or water vapor.
- c. Flare shall be operated with a flame present at all times when emissions may be vented to it, or shall utilize another mechanism that does not allow uncontrolled emissions.
- d. All combustion devices must be equipped with an operating auto-igniter.

8. *Fugitive Dust.*

- a. Silica dust must be contained to the maximum extent practicable during the hydraulic fracturing process.
- b. Dust associated with on-site activities and traffic on access roads shall be minimized throughout construction, drilling and operational activities such that there are no visible dust emissions from access roads or any Well Site to the extent practical given wind conditions.
- c. No untreated produced water or other process fluids shall be used for dust suppression.
- d. The Operator will not create dust or conduct dust suppression activities within 300' of the ordinary high water mark of any waterbody, unless the dust suppressant is water.
- e. Material Safety Data Sheets (MSDS) for any chemical-based dust suppressant, other than magnesium chloride, shall be submitted to the City prior to use.
- f. If a resident of a Residential Building Unit within 2000' of a Well Site complains of dust (either directly to the Operator, to the COGCC, or to the City) Operator shall determine whether the dust is caused by Operator's Operations. Operator shall report its conclusions, including the factual basis for the conclusions, to the City and the complainant. If the dust is caused by Operator's Operations, Operator shall resolve the dust concern to the maximum extent practicable within 24 hours.

9. *Odor Containment.*

- a. Operator shall control and prevent odors from Operations from affecting adjacent properties and shall proactively address and, to the extent possible, resolve complaints filed by impacted members of the community.
- b. Operator shall use a filtration system or additives to the drilling and fracturing fluids to minimize odors.
- c. Operator shall not use fragrance to mask odors.
- d. Operator shall implement one or more of the following measures as necessary:
 - i. Running mud through a cooler to reduce odor;

- ii. Wiping down the drill pipe each time that the drilling operation “trips” out of the hole;
- iii. Increase additive concentration;
- iv. Operator will employ the use of drilling fluid with low to negligible aromatic content during drilling operations after surface casing is set for the protection of fresh water aquifers;
- v. Operator will haul drill cuttings off on a daily basis; and
- vi. Utilizing an electric drilling rig, where practicable.

- e. If a resident of a Residential Building Unit within 2000' of a Well Site complains of odor (either directly to the Operator, to the COGCC, or to the City) Operator shall determine whether the odor is caused by Operator's Operations. Operator shall report its conclusions, including the factual basis for the conclusions, to the City and the complainant. If the odor is caused by Operator's Operations, Operator shall resolve the odor concern to the maximum extent practicable within 24 hours.

10. Reduced Emission Completions (Green Completions).

- a. Operator shall employ reduced emission completions (“Green Completions”) in compliance with federal and state requirements.
- b. Operator shall safely maximize resource recovery and minimize releases to the atmosphere during flowback and subsequent recovery/operation.
- c. Operator shall install gas gathering lines, separators, and sand traps capable of supporting green completions, per the provisions of COGCC Rule 805, as may be amended.
- d. Operator shall comply with 40 CFR 60 (Subpart OOOO), as may be amended, for green completions.
- e. Operator shall not conduct or permit uncontrolled venting other than where necessary for safety.
- f. If allowed, temporary flowback flaring and oxidizing equipment shall include the following:
 - i. Adequately sized equipment to handle 1.5 times the largest flowback volume of gas from a vertical/directional and/or horizontally completed well respectively as reported to the COGCC in a ten mile radius;
 - ii. Valves and porting available to divert gas to flaring and oxidizing equipment; pursuant to the above Rules 40 CFR 60 (Subpart OOOO) for green completions & COGCC Rule 805, as each may be amended;
 - iii. Auxiliary fueled with sufficient supply and heat to combust or oxidize non-combustible gases in order to control odors and hazardous gases; and
 - iv. Flowback combustion devices shall be equipped with a reliable continuous ignition source over the duration of flowback, except in conditions that may result in a fire hazard or explosion.

11. Annual Report.

- a. The Operator shall submit annual reports to the Director certifying:
 - i. Compliance with these air quality requirements unless demonstrated to be inapplicable and documenting any periods of material non-compliance, including the date and duration of each such deviation and a compliance plan and schedule to achieve compliance;
 - ii. That the equipment at each Well Site continues to operate within its design parameters, and if not, what steps will be taken to modify the equipment to enable the equipment to operate within its design parameters;
 - iii. The accuracy and completeness of the report, signed by a responsible corporate official.
- b. Operator may satisfy this reporting obligation, in whole or in part, by submitting its AQCC Regulations No. 7 annual reports for the prior calendar year to the City, and supplementing them as needed to meet these reporting requirements for covered facilities within the City.
- c. The Operator will also provide the City will a copy of any self-reporting submissions that Operator provides to the CDPHE due to any incidence of non-compliance with any CDPHE air quality rules or regulations at any Well Site.

D. Water Quality Protection. Operator shall comply with these water quality protection standards to: protect human health and safety; prevent injury to plant and animal life; prevent damage to property; prevent unreasonable interference with the public welfare; and to protect water quality. These standards are established to prevent or mitigate the degradation of the City's water resources; prevent odors and other pollution problems; and to improve the quality of life and the general welfare in the City.

1. Chemical Disclosure.

- a. Prior to utilizing fracturing chemicals on a Well Site, the Operator shall submit to the City, in table format, the name, Chemical Abstracts Service (CAS) number, storage, containment and disposal method for all such chemicals. The identification of such chemicals shall not be considered confidential or proprietary and the City may make the same available to the public as public records.
- b. Fracturing chemicals used at any Well Site shall be uploaded onto the Frac Focus website within sixty days of the completion of fracturing operations.

2. Chemical Storage & Prohibitions.

- a. Operator shall not permanently store fracturing chemicals, flowback from hydraulic fracturing, or produced water in the City limits.
- b. Operator shall remove all hydraulic fracturing chemicals from a Well Site within thirty (30) days following the completing of hydraulic fracturing at that Well Site.
- c. In addition to any substances that are not permitted to be used in accordance with state or federal rules or regulations, as may be amended, the chemicals listed in Table 1 shall not be utilized in hydraulic fracturing fluid at any Well Site in the City.

TABLE 1

Ingredient Name	CAS #
Benzene	71-43-2
Lead	7439-92-1
Mercury	7439-97-6
Arsenic	740-38-2
Cadmium	7440-43-9
Chromium	7440-47-3
Ethylbenzene	100-41-4
Xylene-F	1330-20-7
1,3,5-trimethylbenzene	108-67-8
1,4-dioxane	123-91-1
1-butanol	71-36-3
2-butoxyethanol	111-76-2
N,N-dimethylformamide	68-12-2
2-ethylhexanol	104-76-7
2-mercaptopethanol	60-24-2
benzene, 1,1'-oxybis-, tetrapropylene derivatives, sulfonated, sodium salts (BOTS)	119345-04-9
butyl glycidyl ether	8/6/2426
polysorbate 80	9005-65-6
quaternaiy ammonium compounds, dicoco alkylidimethyl, chlorides (QAC)	61789-77-3
his hexamethylene triamine penta methylene phosphonic acid (BMPA)	35657-77-3
diethylenetriamine penta (methylene-phosphonic acid)(DMPA)	15827-60-8
FD&C blue no. 1	3844-45-9
Tetrakis(triethanolaminato) zirconium(IV) (TTZ)	101033-44-7

3. *Closed-Loop Pitless Systems for the Containment and/or Recycling of Drilling Fluids.*

- a. Wells shall be drilled, completed and operated using closed-loop pitless systems for containment and/or recycling of all drilling, completion, flowback and produced fluids.
- b. Operator shall recycle fluids to the maximum extent practicable, with the understanding that Operator is limited in its ability to recycle all fluids, as doing so would necessitate the use of permanent tanks, which is otherwise prohibited, and result in the potential for additional emissions.

4. *Containment Berms.*

- a. Operator shall utilize steel-rim berms (or similar material of comparable durability, designed and installed to prevent leakage and resist degradation from erosion or routine operation) around all permanent separation and storage equipment at the Well Sites with sufficient capacity to contain 1.5 times the maximum volume of liquids that such equipment will contain at any given time plus sufficient freeboard to prevent overflow.

- b. All berms and containment devices shall be inspected quarterly by Operator and maintained in good condition.
- c. Secondary containment, such as duck ponds or lined earthen berms for temporary tanks, shall be used.
- d. Secondary containment shall be constructed with a synthetic or engineered liner that contains all primary containment vessels and is mechanically connected to the steel ring to prevent leakage.
- e. No potential ignition sources shall be installed inside the secondary containment area unless the containment area encloses a fired vessel or such sources are rated in accordance with industry codes and standards.
- f. For locations within 500' and up-gradient of a surface water body, tertiary containment, such as an earthen berm, is required around respective production facilities.

5. *Spill Response Kits.* Operator shall make available at each Well Site, or require to be carried by field staff or contractors, Spill Response Kits capable of mitigating small to mid-size spills (e.g., 5 to 50 gallons).

6. *Maintenance of Machinery.*

- a. Operator shall not conduct vehicle maintenance at any Well Site.
- b. Operator shall not conduct routine field maintenance of mobile machinery within 300' of any water body as defined by LDC.
- c. All fueling must occur over impervious material.

7. *Spills.*

- a. Operator shall notify the City and South Adams County Water and Sanitation District (“SACWSD”) of spills at any Well Site that has a reportable spill quantity under any law.
- b. Operator shall provide the City with a copy of any self-reporting submissions that Operator provides to the COGCC due to any spills at any Well Site.

8. *Stormwater.* All Operations shall comply and conform to the City’s stormwater control regulations.

9. *Water Quality Monitoring Plan.*

- a. Operations shall not cause degradation to surface or ground water within the City or to wetlands within the City.
- b. Any approved variance to COGCC rules and regulations relating to the same matters shall be reported to the City and shall modify these requirements.
- c. Using records of the Colorado Division of Water Resources, Operator must implement a water quality monitoring plan that includes the following:
 - i. Operator must obtain initial baseline samples and subsequent monitoring samples from all available potable water sources within a one-half (1/2) mile radius of the Well Sites. Potable water sources include registered water wells or permitted or adjudicated springs. Where a potable water

source is privately owned and the owner refuses to allow Operator access to that source, the Operator shall be exempt from collecting samples from that water source.

- ii. Operator must collect initial testing of baseline samples from all available water sources prior to the commencement of drilling a well, or prior to the re-stimulation of an existing well for which no samples were collected and tested during the previous 6-12 months except from water sources specifically exempted in this BMP Document.
- iii. Post-stimulation samples of all available water sources (unless specifically exempted by this BMP Document) shall be collected and tested pursuant to the following time frame:
 - a) One sample approximately one (1) year after commencement of the Production Phase;
 - b) One sample approximately five (5) years after commencement of the Production Phase; and
- iv. Operator shall collect a sample from at least one upgradient and two down-gradient water sources within a one-half (1/2) mile radius of a Well Site. If no such water sources are available, Operator shall collect samples from additional water sources within a radius of up to one (1) mile from the Well Site until samples from a total of at least one upgradient and two down-gradient water sources are collected. Operator should give priority to the selection of water sources closest to the Well Site.
- v. Operator may rely on existing groundwater sampling data from any water source within the radii described above that was collected in accordance with accepted standards, provided the data was collected within the 12 months preceding the commencement of Drilling Phase for such Well Site, the data includes measurement of all of the constituents measured in Table 2 below and there has been no significant oil and gas activity within a one-mile radius in the time period between the original sampling and the commencement of the Drilling Phase for such Well Site.
- vi. Operator shall make reasonable efforts to obtain the consent of the owner of the water source. If the Operator is unable to locate and obtain permission of the water source, the Operator must advise the City that Operator could not obtain access to the water source from the surface owner.
- vii. Testing for the analytes listed in Table 2 below, and subsequent testing as necessary or appropriate.
- viii. Operator shall follow standard industry procedures in collecting samples, consistent with the COGCC model Sampling and Analysis Plan.
- ix. Operator shall report the location of the water source using a GPS with submeter resolution.
- x. Operator shall report results of field observations including reporting on damaged or unsanitary well conditions, adjacent potential pollution sources, odor, water color, sediment, bubbles, and effervescence.
- xi. Operator shall provide copies of all test results to the City, the COGCC, and the water source owners within 30 days after receiving the samples.
- xii. Subsequent sampling. If sampling shows water contamination, additional measures shall be required including:

- a) If free gas or a dissolved methane concentration level greater than one (1) milligram per liter (mg/l) is detected in a water source, determination of the gas type using gas compositional analysis and stable isotope analysis of the methane (carbon and hydrogen).
- b) If the test results indicate thermogenic or a mixture of thermogenic and biogenic gas, an action plan to determine the source of the gas.
- c) Immediate notification to the City, the COGCC, and the owner of the water well if the methane concentration increases by more than five (5) mg/l between sampling periods, or increases to more than ten (10) mg/l.
- d) Immediate notification to the City, the COGCC and the owner of the water well if BTEX and/or TPH are detected as a result of testing. Such detections may result in required subsequent sampling for additional analytes.
- e) Further water well sampling in response to complaints from water source owners.
- f) Timely production and distribution of test results in electronic deliverable format to the City, the COGCC and the water source owners.
- g) Qualified Independent Professional Consultant. All subsequent water source testing must be conducted by a qualified independent professional consultant.

TABLE 2

GENERAL WATER QUALITY

Alkalinity, Conductivity & TDS, pH, Dissolved Organic Carbon (or Total Organic Carbon), Bacteria, Perfluorinated Compounds (PFCs), and Hydrogen Sulfide

MAJOR IONS

Bromide, Chloride, Fluoride, Magnesium, Potassium, Sodium, Sulfate, and Nitrate + Nitrite as N

METALS

Arsenic, Barium, Boron, Chromium, Copper, Iron, Lead, Manganese, Selenium, Strontium, Mercury, Uranium, and Radium

DISSOLVED GASES and VOLATILE ORGANIC COMPOUNDS

Methane, Ethane, Propane, BTEX as Benzene, Toluene, Ethylbenzene and Xylenes, Total Petroleum, and Hydrocarbons (TPH)

OTHER

Water Level, Stable isotopes of water (Oxygen, Hydrogen, Carbon), Phosphorus.

10. Wastewater and Waste Management.

- a. Operator shall implement a Waste Management Plan to the City that complies with the following:
 - i. All fluids shall be contained and there shall be no discharge of fluids.
 - ii. Wastewater shall be stored in tanks, transported by tanker trucks and/or pipelines, and disposed of at licensed disposal or recycling sites in accordance with applicable law.
 - iii. Operator shall not dispose of any wastewater within the City.

- iv. All other waste shall be disposed of in accordance with state regulations.
- v. The plan shall incorporate secondary containment and stormwater measures consistent with this BMP Document.
- vi. No land treatment of oil impacted or contaminated drill cuttings are permitted.

b. A copy of the Operator's Spill Prevention, Control, and Countermeasure Plan (SPCC) describing spill prevention and mitigation practices will be given to the City.

11. *Well Integrity.*

- a. Operator shall equip the bradenhead access to the annulus between the production and the surface casing, as well as any intermediate casing, with a fitting to allow safe and convenient determinations of pressure and fluid flow.
- b. Valves used for annular pressure monitoring shall remain exposed and not buried to allow for visual inspection.
- c. Operator shall take bradenhead pressure readings as required by the COGCC.

12. *Wetlands Protection Plan.* If applicable, Operator shall implement a Wetlands Protection Plan demonstrating the oil and gas operations shall, to the maximum extent practicable, avoid causing degradation to wetlands with Commerce City. Among other methods to achieve compliance with this standard, the proposed oil and gas operation shall not alter historic drainage patterns and/or flow rates or shall include acceptable mitigation measures to compensate for anticipated drainage impacts.

13. *Water Supply.*

- a. Operator shall comply with applicable State of Colorado, Department of Natural Resources and other applicable State regulations concerning the source(s) of water used in the Drilling Phase and Completions Phase.
- b. Operator shall notify the City, upon its request, of the source(s) of water to be used at Well Sites during the Drilling Phase and Completion Phase and will provide the City with an estimate of the volumes of water to be utilized, with such estimates subject to change.
- c. All water volumes actually used by Operator shall be reported by the Operator to the State of Colorado in accordance with its regulations.
- d. All fresh water for hydraulic fracturing shall be transported to the Well Sites by means other than by truck, unless the Operator provides notice after demonstration of extenuating circumstances which will short amount of time seven days or less. If the transportation of water by means other than truck exceeds seven (7) days the operator will seek any necessary amendments to the Oil and Gas Permit.

E. Safety. Operator shall comply with these safety standards to: protect human health and safety; prevent injury to plant and animal life; prevent damage to property; and prevent unreasonable interference with the public welfare.

1. *Use of Pipelines.*

- a. Operator shall use pipelines for the transport of oil, gas, and produced water from Well Sites where feasible, and shall utilize such pipelines at each Well Site before the Production Phase commences.
- b. Operator shall be permitted to utilize temporary tanks during drilling, flowback, workover, completion, hydraulic fracturing and maintenance operations.
- c. Operator shall obtain all permits necessary for the construction and use of pipelines, including a conditional use permit.

2. *Bradenhead Monitoring.* Operator shall conduct bradenhead monitoring on all wells in accordance with COGCC rules and regulations.

3. *Burning.* No open burning shall occur on the site of any oil and gas operation except flaring as allowed in this BMP Document.

4. *Discharge Valves.* Open-ended discharge valves on all storage tanks, pipelines and other containers within any Well Site shall be secured and shall not be accessible to the general public. Open-ended discharge valves within any Well Site shall be placed within the interior of the secondary containment area.

5. *Flammable Material.* All ground within 25' of any tank, or other structure containing flammable or combustible materials, shall be kept free of dry weeds, grass or rubbish, and shall conform to COGCC 600 Series Safety Regulations and the applicable fire code. Landscaping is prohibited within 25' of any tank or other structure containing flammable or combustible materials.

6. *Flowlines.*

- a. Any newly constructed or substantially modified flowlines on any Well Site shall be constructed and operated under the provisions of the COGCC 1100 Series Flowline Regulations and any future COGCC Flowline Regulations, as either may be amended, and any applicable surface use agreements with the surface owners.
- b. Operator shall pressure test all flowlines following their construction, including those rated at less than 15 PSI.
- c. Operator will provide to the City all records required to be submitted to state agencies related to inspections, pressure testing, accidents and other safety incidents related to flowlines at any Well Site and, upon specific request by the City, Operator will provide to the City any other records submitted to State agencies related to flowlines at the Well Sites.
- d. All new flowlines and pipelines shall have the legal description of the location recorded with the Adams County Clerk and Recorder within thirty (30) days of completion of construction.
- e. Abandonment of any recorded flowlines shall be recorded with the Adams County Clerk and Recorder within thirty (30) days after abandonment.
- f. Operator will provide the City with GIS files for the location of flowlines.
- g. Flowlines will be removed when last well utilizing the lines are plugged and abandoned unless this requirement is waived in writing by the Director.

7. *General Maintenance.* Operator shall operate and maintain all equipment pursuant to manufacturer specifications consistent with technological limitations and reasonable and customary maintenance practices.
8. *Plugged and Decommissioned Well Testing.*
 - a. Before and after the hydraulic fracturing of any new well, Operator shall assess the integrity of all oil and gas and disposal wells (Active, Dry & Abandoned, Injecting, Plugged & Abandoned, Producing, Shut-In, and Temporarily Abandoned) where the surface location of such wells are within the City and within 1500' of the completion interval of the projected track of the borehole of the proposed new well, based upon examination of COGCC and other publicly available records. This shall include assessment of leaking gas, oil, or water to the ground surface or into subsurface water resources, taking into account plugging and cementing procedures described in any recompletion or plugged and abandoned report filed with the COGCC. The analysis shall be provided to the City.
 - b. Based on the results of the assessment, the City may require Operator to plug and abandon, in compliance with all COGCC rules in relation to abandonment and plugging, any of the Operator's existing oil and gas or disposal wells or such wells under the Operator's ownership, control or authority. Additionally, the City may request Operator to attempt to negotiate the plugging and abandonment of other wells of concern, that are not owned by the Operator, but that are within 1500' of the completion interval of the projected track of the borehole of the proposed new well. If wells of concern are not plugged and abandoned, Operator must supply a mitigation plan and a follow-up monitoring plan that will be used to prevent or detect any communication between the well of concern and the proposed wells.
 - c. Operator shall provide notification to the City and applicable fire district not less than fourteen (14) days prior to commencing plugging operations. Operator shall notify the City and COGCC of the results of plugging and cementing procedures.
 - d. For each well abandoned by Operator within the City for which access and permission to test is granted, a soil gas survey to test the soil within a 10' radius of the well shall be completed prior to production from a proposed new well and again one (1) year after production has commenced on the new well. Every well abandoned by Operator shall also be subject to the testing one (1) year after production has commenced on a new well. Operator shall provide the results of the soil gas survey to the City and the COGCC within one (1) month of conducting the survey or advise the City that access to the previously abandoned wells could not be obtained from the surface owner.
9. *Surface Safety Valve and Automatic Safety Protective Systems.*
 - a. Operator will install an automated safety system, governed by safety devices and a programmable logic computer, at each Well Site.
 - b. Each system shall include a Surface Safety Valve ("SSV") or wellhead master control valve installed for each new well before the commencement of the Production Phase connected to the production tubing at the surface. The SSV or wellhead master control valve shall monitor multiple flowing pressures and rates which have predetermined maximum and/or minimum threshold values programmed and will remotely shut the well in should certain upset conditions be detected. Additionally, the automated safety system shall provide the ability to remotely shut-in wells on demand through operator remote intervention.

- c. The SSV will have documented, quarterly testing to ensure functionality per manufacturer's specifications.

10. *Flowback Best Management Practices*

- a. Before flowback, Operator shall:
 - i. Construct the production facility capable of remote emergency shut down consistent with this BMP Document;
 - ii. Tie flowback equipment into combustors;
 - iii. Notify appropriate fire district at least twenty-four (24) hours before production flowback is scheduled to begin for the first time on a well pad; and
 - iv. Conduct a pre-startup safety review (PSSR), which will review facility and equipment spacing requirements and safety procedures.
- b. During flowback, Operator shall:
 - i. Utilize gas monitors that are capable of detecting Lower Explosive Level and H2S, which emit an audible tone linked to cell phones to notify people on and off location;
 - ii. Utilize automatic tank gauging to measure tank levels and have 24-hr manned operations;
 - iii. Send flowback gas to sales pipeline, when possible.

11. *Safety Management Plans.* Operator shall maintain safety management plans for oil and gas operations including: hazard review, operating procedures, safety training program, maintenance procedures, compliance audits, and design measures.

F. Visual & Noise Mitigation. Operator shall comply with these visual and noise mitigation standards to: protect human health and safety; prevent damage to property; prevent unreasonable interference with the public welfare; preserve visibility; and protect scenic, aesthetic, and historic values in the City. These standards are established to improve and to prevent degradation to the quality of life and the general welfare in the City.

- 1. *Visual Mitigation Methods.* The City may require Operator to implement the following visual mitigation methods may be required on a site-specific basis:
 - a. Use of low-profile tanks less than 16 ft. in height;
 - b. Use of equipment with reduced height and profiles;
 - c. Facility painting, vegetative or structural screening, land berthing, and landscaping;
 - d. Earthen berms around the perimeter of fencing with turf grass or ground cover generally recognized by landscape architects and horticulturalists for local area use for the purpose of general screening;
 - e. Establishment and proper maintenance of ground cover, trees and shrubs for screening and aesthetic purposes;

- f. Designing an Oil and Gas Facility to utilize natural screens where possible; and
- g. Construction of fences for use with or instead of landscaping or berming;

2. *Landscaping.*

- a. If water for irrigation use is unavailable at the location, the initial phase may utilize natural topography and fencing surrounding the location, as well as any trees already established near the property.
- b. Initial landscaping, if required by an approved Landscaping Plan, and any fencing will be installed within 6 months of finishing drilling and completion operations.
- c. Once water for irrigation use is available to the area, the Operator must implement any final landscaping as described in the Landscaping Plan. The Operator must consult with the City as well as meet Land Development Code requirements at the time the final landscaping is installed.
- d. Existing significant trees (greater than eight inches in caliper) shall be preserved to the maximum extent practicable and may help satisfy the landscaping and visual mitigation requirements. All required landscape plans shall accurately identify the locations, species, size, and condition of all significant trees, each labeled showing Operator's intent to either remove, transplant, or protect. Trees that meet one or more of the following removal criteria shall be exempt from the requirements contained in this subsection:
 - i. Dead, diseased, or naturally fallen trees, or trees found to be a threat to public health, safety or welfare;
 - ii. Trees that are determined by the city to substantially obstruct clear visibility at driveways and intersections; or
 - iii. Tree species that constitute a nuisance to the public such as cotton-bearing cottonwood, Siberian or Chinese elm, Russian olive and female box-elder. Native cotton-bearing cottonwood trees and female box-elder trees, when located in a natural area buffer zone, are not nuisance tree species.

3. *Lighting.*

- a. Exterior lighting shall be directed away from residential and other sensitive areas or shielded from said areas to eliminate glare. Light spillage beyond the perimeter of a Well Site should be minimized.
- b. All permanent lighting or lighting higher than a perimeter wall must be downward facing.
- c. All bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture.
- d. Prior to installation of permanent lighting on any Well Site, Operator shall submit to the City a Lighting Plan and the City shall communicate with Operator any modifications to the plan that it deems appropriate. Operator shall make such modifications as reasonably required by the City and as required by law.
- e. The Lighting Plan shall indicate the location of all outdoor lighting on the site and any structures, and include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures.

- f. During the Drilling and Completion Phases, consistent with applicable law, Operator will construct a minimum 32 ft. in height wall around as much of the perimeter of the well pads as operations allow to reduce light escaping from the site, unless taller, shorter, or no walls are mutually agreed to by City and Operator on a site-specific basis.
- 4. *Artificial Lift.* Artificial lift will not be accomplished through the use of traditional pump jacks. Alternatives such as gas lift, linear rod pumps, or hydraulic pumping unit may be used, and are to be as low profile as practicable with a maximum height of 30 ft. An alternative artificial lift system may be used if it is less visible or auditory impacts and is agreed to by both parties.
- 5. *Trailers.*
 - a. A construction trailer(s) is permitted as an accessory use during active construction, drilling and well completion or workover operations only.
 - b. Permanent residential trailers are prohibited at Well Sites.
 - c. Until ninety (90) days following the end of the Completion Phase on a Well Site, temporary residential and/or security trailers are permitted, as needed for on-site operations, for exclusive use by the Operator's personnel and the personnel of its subcontractors on a temporary basis.
- 6. *Noise.*
 - a. Operator shall use quiet completions technology for any well located within 2000' of a Residential Building Unit or a High Occupancy Structure unless Operator obtains waivers from all affected property owners within that distance.
 - b. Operator shall conduct a Baseline Noise Mitigation Study to ascertain baseline noise levels at each Well Site to demonstrate that noise is expected to be mitigated to the extent practicable. A copy will be provided to the City.
 - c. The City may require Operator to implement additional noise mitigation if there is a Residential Building Unit, Public Park, or High Occupancy Structure within 2000' of the Well Site and based on any of the following additional site-specific characteristics:
 - i. Nature and proximity of adjacent development (design, location, use);
 - ii. Prevailing weather patterns, including wind directions;
 - iii. Type and intensity of the noise emitted; and
 - iv. Vegetative cover on or adjacent to the site or topography.
 - d. Additional noise mitigation measures may include:
 - i. Continuous noise monitoring by a third party contractor, at expense of Operator, during construction, drilling, and completions, with instruments placed between the Oil and Gas Location and Residential Building Units within 2000'. Data shall be provided to the City.
 - ii. The Operator shall address C scale noise/vibration through berthing, capable sound walls, and other practices.

- iii. During the drilling and completion, the operator may be required to construct a perimeter wall and/or comparable measures to mitigate noise as appropriate on a case-by-case or modeled basis.
- iv. Additional mitigations must be taken by the Operator if C-scale noise levels are increased the larger of either 5db over ambient or above 65db at 25' from the nearest occupied building unit.
- v. Use of electric-powered motors and pumping systems.
- vi. Construction of buildings or other enclosures where Operations create noise and visual impacts that cannot otherwise be mitigated due to proximity, density or intensity of adjacent land use.

G. Community Outreach, Notification, Reporting & Oversight; Hazards & Emergencies. Operator shall comply with these standards to: protect human health and safety; prevent damage to property; and prevent unreasonable interference with the public welfare. These standards are established to improve and to prevent degradation to the quality of life and the general welfare in the City.

1. *Outreach to Affected Residents.*

- a. Operator shall maintain a list, updated annually, of the residents and business owners within ¼ mile (1320') of a Well Site ("Affected Residents").
- b. Operator shall:
 - i. Provide at least fourteen (14) days advanced written notice to Affected Residents of mobilization in, rig up (MIRU);
 - ii. Notify Affected Residents in writing within seven (7) days of any reportable events that could have off-site impacts including fires, explosions, blow-outs, venting, or large spills (over 100 barrels);
 - iii. Provide these notices to the local fire district and Police Department emergency managers.

Operator may satisfy these notification requirements through direct correspondence or through direct mail.

2. *Bi-Annual Updates to City.*

- a. Operator biannually shall provide a formal written Progress Report update to the Director, to be shared publicly, as to the progress of Operations, including but not limited to:
 - i. Any reportable spills or reportable accidents at locations;
 - ii. Any notice of alleged violations from the City or COGCC; and
 - iii. A summary of complaints to the Operator and COGCC.
- b. Updates shall begin at the beginning of construction and continue throughout drilling and completion operations and cease once the final well approved for a Well Site has been drilled and has been in production for one full year.

3. *Complaint Response.*

- a. Operator shall maintain a dedicated phone line to receive complaints that is open 24 hours per day, 7 days a week. The phone number shall be posted at all Well Sites and provided to the City's LGD.
- b. Operator shall document and review all complaints and provide the complainant with an initial response within twenty four (24) hours. Responses to complaints shall also be provided to the City's LGD and, if appropriate, state officials.
- c. Any additional responses or corrective actions will be communicated to the complainant, landowner, City's LGD, and, if appropriate, state officials.

4. *Risk Management.* Operator shall create and implement a Risk Management Plan for Well Sites and Oil and Gas Facilities that are part of an Oil and Gas Permit. The plan shall include risk identification, responsibilities, assessment, response, planning mitigation and, methods of risk avoidance and control that implement techniques to prevent the accident/loss and reduce the impact after an accident/loss occurs. Operators shall periodically update and revise the plan, but at least every three years and after any incident.
 - a. Operator shall develop a risk identification in a risk table which will identify the particular site by name, describe the risk, identify any health, safety, or environmental impact, identify any impact to Operator's development schedule, provide a description of the risk area and associated factors, and whether it is an unmitigated or mitigated risk.
 - b. Operator shall assign persons or entities under its control or direction to have responsibility for the managing risk identified and plans support the risk mitigation. Such assignment shall not limit the Operator's responsibility.
 - c. Operator shall identify any planned mitigation response (including emergency response, tactical response, and notifications) for certain identified risks.
 - d. Operator will implement a compliance and audit program. The Operator shall determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected. If Operator utilizes a self-reporting mechanism to any respective agency, that self-reporting mechanism will be described in the Risk Management Plan. If Operator self-reports, any findings included in the self-reporting to any other respective agency will be provided to the City.
 - e. City may retain outside consultants, at Operator's cost, to review Risk Management Plan and may require modifications to Risk Management Plan based on its review.

5. *Incident and accident reporting.*

- a. Within twenty-four (24) of any reportable safety event, as defined by the COGCC in Rule 602(c), as may be amended, or any accident or natural event involving a fire, explosion or detonation requiring emergency services or completion of a COGCC Form 22, Operator shall submit a report to the City that includes the following, to the extent available: fuel source, location, proximity to residences and other occupied buildings, cause, duration, intensity, volume, specifics and degree of damage to properties, if any beyond the Well Site, injuries to persons, emergency response, and remedial and preventative measures to be taken within a specified amount of time. Additional reporting shall be provided after the conclusion of the event, if the event lasts longer than twenty-four (24) hours.
- b. The City may require Operator to conduct a root cause analysis of any reportable safety events or Grade 1 gas leaks, each as defined by the COGCC.

- c. Any spill or release that is reportable to the COGCC shall be simultaneously reported to the City's LGD and the applicable fire district.
- 6. *Signs and Markers.* Operator shall mark each and every well in a conspicuous place, from the time of initial drilling until final abandonment, as follows:
 - a. General Sign Requirements.
 - i. No sign required under this BMP shall be installed at a height exceeding 6'.
 - ii. Operator shall maintain signs in a legible condition and shall replace damaged or vandalized signs within sixty (60) days.
 - b. Drilling and Recompletion Operations.
 - i. Operator shall provide directional signs, no less than three (3) and no more than six (6) sq. ft. in size, during all drilling and recompletion operations.
 - ii. Such signs shall be at locations sufficient to advise emergency crews where drilling or recompletion is taking place.
 - iii. Such sign locations shall include the first point of intersection of a public road and the rig access road and thereafter at each intersection of the rig access route, except where the route to the well is clearly obvious to uninformed third parties in any weather or condition.
 - iv. Such signs not needed to meet other obligations under these rules shall be removed as soon as practical after drilling and recompletion operations are complete.
 - c. Permanent Designations.
 - i. Oil and Gas Wells. Within sixty (60) days after the Completion Phase of an Oil and Gas Well, a permanent sign shall be located at both the wellhead and surface equipment (if not at the wellhead), which shall identify the Oil and Gas Well, the name and contact information of the Operator and the legal location, including the quarter section.
 - ii. Surface Equipment. Within sixty (60) days after the installation of a tank battery, a permanent sign shall be located at the tank battery. At the option of the Operator, or at the request of the City, the sign may be placed at the intersection of the lease access road with a public road nearest the tank battery, if the tank battery is readily apparent from such location. Such sign, which shall be no less than three (3) sq. ft. and no more than six (6) sq. ft., shall provide: the name of the Operator; a phone number at which the Operator may be reached at all times; a phone number for local emergency services; the lease name or Oil and Gas Well name(s) associated with the tank battery; the public road used to access the site; and the legal location, including the quarter section.
 - iii. Tanks and Containers. All tanks with a capacity of ten (10) barrels or greater shall be labeled or posted with the following information:
 - a) Name of Operator;
 - b) Operator's emergency contact telephone number;

- c) Tank capacity;
- d) Tank contents; and
- e) National Fire Protection Association (NFPA) Label.

7. *Emergency Response Plan.*

- a. Operator shall complete and implement all components of a detailed Emergency Response Plan subject to the approval of the City's emergency manager and the applicable fire district must approve of the Emergency Response Plan ("Plan") before the Drilling Phase commences.
- b. Operator shall review the plan annually and file any updates with the City's Emergency Manager and the applicable fire district. If no updates to the Plan are made then Operator shall provide notice of "No Change."
- c. The Plan shall include:
 - i. Name, address and phone number, including twenty-four-hour numbers for at least two (2) persons responsible for field operations as well as the contact information for any subcontractor of Operator engaged for well-control emergencies;
 - ii. A process by which the Operator notifies surrounding neighbors to inform them about the on-site operations and emergencies and to provide sufficient contact information for surrounding neighbors to communicate with the Operator;
 - iii. An as-built facilities map in a format suitable for input into the City's GIS system depicting the locations and type of above and below ground facilities, including sizes and depths below grade of all oil and gas flow lines and associated equipment, isolation valves, surface operations and their functions, as well as transportation routes to and from exploration and development sites, for response and management purposes. The information concerning flowlines and isolation valves shall be marked and treated as confidential and shall only be disclosed in the event of an emergency or to emergency responders or for the training of emergency responders;
 - iv. Detailed information addressing each reasonable potential emergency that may be associated with the operation, including without limitation: explosions; fires; gas; oil or water pipeline leaks or ruptures; hydrogen sulfide or other toxic gas emissions; hazardous material vehicle accidents or spills; and natural disasters;
 - v. An emergency evacuation plan for the Well Site and any person within one-half (1/2) mile of the Well Site.
 - vi. A provision that any spill outside of the containment area, that has the potential to leave the facility or to threaten waters of the state, or as required by the City-approved plan shall be reported to the local dispatch and the COGCC Director in accordance with COGCC regulations;
 - vii. Detailed information identifying access, and health care facilities anticipated to be used;
 - viii. A project-specific plan for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas;

- ix. A provision obligating the Operator to reimburse the appropriate agencies for their expenses resulting from the Operator's operations; and
- x. A statement and detailed information indicating that the Operator has adequate personnel, supplies, and training to implement the plan immediately at all times during construction and operations.
- d. The Operator shall have current Material Safety Data Sheets (MSDS) for all chemicals used or stored on a Well Site. The MSDS sheets shall be provided immediately upon request to City officials, a public safety officer, or a health professional as required by COGCC Rule 205.
- e. All training associated with the Plan shall be coordinated with the City and the fire districts within the City.
- f. Operator shall provide the City with its shutdown protocols and promptly notify the City of any shutdowns that would have an impact to any area beyond the confines of the Well Site.

H. Insurance. Operator shall comply with these insurance standards to: protect human health and safety; prevent damage to property; prevent unacceptable losses to public finances; and prevent unreasonable interference with the public welfare. These standards are established to improve and to prevent degradation to the quality of life and the general welfare in the City. The requirements of these BMPs may be reduced by the Director with the consent of the City's designated Risk Manager and Director of Finance based on the Operator's financial condition, additional protections and guarantees, and the size, scope, location, and nature of the Operations.

- 1. The Operator shall maintain or cause to be maintained, with insurers authorized by the state of Colorado and carrying a financial strength rating from A.M. Best of no less than A- VII (or a similar rating from an equivalent recognized ratings agency), at a minimum, the following types of insurance with limits no less than the amounts indicated:
 - a. Commercial General Liability insurance on an occurrence based form including coverage for bodily injury or property damage for operations and products and completed operations with limits of not less than \$1,000,000 each and every occurrence.
 - b. Automobile Liability insurance with limits of not less than \$1,000,000 each and every occurrence.
 - c. Workers' Compensation insurance- Statutory Workers' Compensation Coverage for the employee's normal State of employment/hire. Including Employer's Liability insurance - with limits of not less than \$1,000,000 Each Accident, Disease - Each Employee, Disease - Policy Limit.
 - d. Control of Well/Operators Extra Expense insurance - with limits of not less than 10,000,000 covering the cost of controlling a well that is out of control or experiences a blowout, re-drilling or restoration expenses, seepage and pollution damage resulting from an out of control well or blowout as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment and evacuation of residents.
 - e. Umbrella/Excess Liability - in excess of General Liability, Employer's Liability, and Automobile Liability with limits no less than \$25,000,000 per occurrence; provided, however, that for so long as the Construction Phase, Drilling Phase or Completions Phase is ongoing at any Well Site under a permit, Operator will maintain such insurance with limits no less than \$100,000,000 per occurrence.

- f. Environmental Liability/Pollution Legal Liability insurance- with limits of not less than \$5,000,000 per pollution incident, with coverage being required beginning with the date that is eight (8) years from the date of first production from each new well ("Required Date"). Coverage must include gradual pollution events. This insurance may be on a claims-made basis, however the retroactive date must precede the Required Date in order to cover all wells.
- 2. Operator shall waive and cause its insurers under the above policies to waive for the benefit of the City any right of recovery or subrogation which the insurer may have or acquire against the City or any of its affiliates, or its or their employees, officers or directors for payments made or to be made under such policies.
- 3. Operator shall add the City and its elected and appointed officials and employees as Additional Insureds under general liability (including operations and completed operations), auto liability, and umbrella liability.
- 4. Operator shall ensure that each of the policies are endorsed to provide that they are primary without right of contribution from the City or any insurance or self-insurance otherwise maintained by the City, and not in excess of any insurance issued to the City.
- 5. Operator shall ensure that each of the policies above (excluding workers' compensation and OCC/COW) are endorsed to state that the inclusion of more than one insured under such insurance policy shall not operate to impair the rights of one insured against another insured and that the coverage afforded by each insurance policy shall apply as though a separate policy had been issued to each insured.
- 6. All policies shall be endorsed such that they cannot be canceled or non-renewed without at least 30 days' advanced written notice to Operator and the City, evidenced by return receipt via United States mail, except when such policy is being canceled for nonpayment of premium, in which case ten (10) days advance written notice is required. Language relating to cancellation requirements stating that the insurer's notice obligation is limited to "endeavor to" is not acceptable.
- 7. Operator shall, prior to permit issuance, deliver Certificates of Insurance reasonably acceptable to the City confirming all required minimum insurance is in full force and effect.
- 8. Deductibles or retentions shall be the responsibility of Operator. Deductibles or retentions must be listed on the Certificate of Insurance required herein and are subject to the reasonable approval of the City.
- 9. Operator shall require any of its subcontractors to carry the types of coverage and in the minimum amounts in accordance with the requirements set out in Section 1.A, 1.B. and 1.C. Operator shall be responsible for any damage or loss suffered by the City as a result of non-compliance by Operator or any subcontractor with this section.
- 10. If Operator's coverage lapses, is cancelled or otherwise not in force, the City reserves the right to obtain insurance required herein and charge all costs and associated expenses to Operator, which shall become due and payable immediately.
- 11. If that the coverage required is not widely available to operators in the Denver-Julesburg Basin, in lieu of the coverage required, Operator and the City may establish a joint escrow account that shall be used to satisfy any obligations of Operator that would have otherwise have been covered by the coverage required. Operator shall fund such account with an amount equal to \$5,000.00 per new well then-producing (the "Per Well Amount"). The aggregate amount to be placed into the account shall be re-visited on an annual

basis based on the then-number of producing new wells. The Per Well Amount shall be adjusted each year by the increase or decrease in the Consumer Price Index issued by the United States Bureau of Labor Statistics for the Denver – Boulder metropolitan area. Any interest accrued in the account shall be credited towards the Operator's required contributions to the account and any excess amounts in the account above and beyond the amount required by this provision shall be promptly returned and released to Operator.

I. *Reclamation.* Operator shall comply with these reclamation standards to: protect human health and safety; prevent injury to plant and animal life; prevent damage to property; and prevent unreasonable interference with the public welfare. These standards are established to restore the City's resources and to improve the quality of life and the general welfare in the City.

1. *Interim Reclamation Plan.* Operator shall implement an interim reclamation plan including:

- a. *Removal of Debris.* All construction-related debris shall be removed from the site for proper disposal in a timely manner. The site shall be maintained free of debris and excess materials at all times during operation. Operator shall not burn or bury debris at any time on any Well Site.
- b. *Removal of Equipment.* All equipment used for drilling, re-completion and maintenance of the facility shall be removed from the site within thirty (30) days of completion of the work, weather condition permitting, unless otherwise agreed to by the surface owner. Permanent storage of removable equipment on any Well Site is prohibited.

2. *Final Reclamation Plan.* Operator must submit an oil and gas Well Site Final Reclamation Plan and reclaim a Well Site not later than six (6) months after plugging and abandoning the last well at such Well Site, weather and planting season permitting. In addition to any COGCC reclamation requirements, Operator shall:

- a. Remove all pipelines, gathering lines and flowlines after one (1) year of non-use when last well utilizing lines are plugged and abandoned unless this requirement is waived in writing by the Director; and
- b. Reclaim and revegetate, to the original state prior to Operations, all temporary access roads associated with Operations at a Well Site within a reasonable amount of time, taking into account planting seasons, or as directed by the landowner in a Surface Use Agreement and subject to applicable COGCC variances.

J. *Transportation and Circulation.*

1. *General.*

- a. Operator will comply with all Transportation and Circulation requirements as contained in the LDC and as may be reasonably required by the City's Traffic Engineer.
- b. Operator will comply with all applicable hazardous material regulations.
- c. Operator will obtain necessary access permits, which the City will not unreasonably withhold.

2. *Traffic Control Plan.* Operator shall establish a Traffic Control Plan including the following:

- a. Estimated weights of vehicles when loaded, a description of the vehicles, including the number of wheels and axles of such vehicles and trips per day;

- b. Detail of access locations for each well site including sight distance, turning radius of vehicles and a template indicating this is feasible, sight distance, turning volumes in and out of each site for an average day and what to expect during the peak hour;
- c. Truck routing map and truck turning radius templates with a listing of required and determined that certain improvements are necessary at intersections along the route;
- d. Restriction of non-essential traffic to and from any Well Site to periods outside of peak am and pm traffic periods and during school hours (generally 7-8am and 3-6pm) if Well Site or access road are within 1000' of school property.
- e. Identification of need for any additional traffic lanes, which would be subject to the final approval of the City's engineer.

3. *Public Improvements.* If public road improvements are necessary to accommodate an Operation, and before work will be permitted within any City right-of-way, the Operator shall draft engineered drawings to be prepared by a Colorado licensed civil engineer, in conformance with City standards, for review and approval by the City.

4. *Private Access Roads.*

- a. Access points to public roads must be located, improved and maintained to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.
- b. Permanent access roads must be improved a minimum distance of 200' on the access road from the point of connection to a public road.
- c. All access roads must be in conformance with the City's standards and specifications. A geotechnical report and pavement design will be submitted to the City for approval.
- d. Access roads must be improved as a hard surface (concrete or asphalt) for the first 100' from the public road, unless public road is not already a hard surface, in which case, Operator shall meet the current standards of the public road.
- e. Access roads must be improved with a crushed surface (rock, concrete, or asphalt) for the next 100' in the appropriate depth to support the weight load requirements of the vehicles accessing the Well Site.
- f. If an access road intersects with a pedestrian trail or walk, the Operator shall pave the access road as a hard surface (concrete or asphalt) a distance of 100' either side of the trail or walk, unless the trail or walk is not already a hard surface, in which case, Operator shall meet the current standards of the trail or walk. If necessary, Operator shall replace the trail or walk to address the weight load requirements of the vehicles accessing the well and production facilities.

5. *Mud Tracking.*

- a. Operator shall take all practicable measures to ensure that vehicles do not track mud or debris onto public streets.
- b. Operator shall immediately clean any mud or debris deposited on public streets that is more than *de minimis*.

- c. The Director of Public Works or designee may authorize a delay in the cleaning of mud or debris from public streets if Operator submits a plan for removal that is approved.

6. *Chains.* Traction chains from heavy equipment shall be removed before entering a public street.

[END OF BMP DOCUMENT]

Sec. 3-2304. - Penalties.

- (a) The following minimum penalties are hereby established for violations prosecuted under this article; provided, however, that the minimum penalties for violations of any provision identified as a civil infraction in chapter 4 of this Code shall be fifty (50) percent of the amounts set forth in this section:
 - (1) A minimum penalty of one hundred dollars (\$100.00) shall be imposed against the responsible party for the first violation of a particular code provision within any consecutive twelve-month period.
 - (2) For each successive violation of the same code provision within any twelve-month period, minimum penalties shall be imposed against the responsible party as follows:
 - a. Second violation: three hundred dollars (\$300.00).
 - b. Third violation: five hundred dollars (\$500.00).
 - c. Fourth or greater violation: nine hundred ninety-nine dollars (\$999.00).
 - (3) Where multiple violations of a single Code provision are found, the applicable minimum penalty shall be imposed for each count.
- (b) Notwithstanding the foregoing, the following minimum penalties are hereby established for violations prosecuted under this article relating to oil and gas operations governed by sections 21-3216 and 21-5266 of the Commerce City Land Development Code, the BMP Document (as authorized by the Commerce City Land Development Code):
 - (1) A minimum penalty of five hundred dollars (\$500.00) shall be imposed against the responsible party for the first violation of a particular provision within any consecutive twelve-month period.
 - (2) For each successive violation of the same provision within any twelve-month period, minimum penalties shall be imposed against the responsible party as follows:
 - a. Second violation: one thousand dollars (\$1,000.00).
 - b. Third violation: two thousand dollars (\$2,000.00).
 - c. Fourth or greater violation: two thousand six-hundred and fifty dollars (\$2,650.00).
 - (3) Where multiple violations of a single provision are found, the applicable penalty shall be imposed for each count.
- (c) Payment of a penalty shall neither excuse the failure to correct a violation nor bar further enforcement action by the city.
- (d) All penalties imposed and fees assessed shall be payable to the city.
- (e) The failure of a responsible party to pay the penalties imposed within the time specified in any notice of assessment issued in accordance with this article, or in the enforcement order if a protest hearing was held, may result in the assessment of a late fee in an amount set by city council resolution, and the city manager may refer the matter for collection by whatever means are available to the city.
- (f) Any action or other process provided by law may be maintained by the city to recover or collect any amounts, including late fees, interest and administrative costs, owing under this article.

(Ord. No. 1848, § 1, 1-10-2011)