

EXHIBIT A TO ORDINANCE 2640

(Red strike-through text indicates removals; blue underline text indicates additions)

Sec. 3-2103. Penalties and costs; collection

(a) Penalties imposed on the responsible party for a civil infraction enforced under this article shall be as follows, provided 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).
 - d. Notwithstanding the foregoing, a minimum penalty of five hundred dollars (\$500.00) shall be imposed against the responsible party for any violation of section 6-2003(c) of this code.

(3) Notwithstanding the foregoing, the minimum penalties for violations of any provision of section 6-2012(b)(1) of this Code on a property of a size equal to one acre or larger, shall be as set forth in this section:

- a. First violation: five hundred dollars (\$500.00).
- b. Second violation: nine hundred ninety-nine dollars (\$999.00).
- c. Third violation: two thousand six hundred fifty dollars (\$2,650.00) or the Maximum Fine, whichever is greater.
- d. The maximum fine shall be two thousand six hundred fifty dollars (\$2,650.00) adjusted for inflation on January 1, 2014, and on January 1 of each year thereafter. "Inflation" shall mean the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index, currently the index for Denver-Aurora-Lakewood.

(34) Where multiple violations of a single Code provision are found, the applicable minimum penalty shall be imposed for each count.

(45) Payment of a penalty shall neither excuse the failure to correct a violation nor bar further enforcement action by the city.

(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 21-3235 and 21-5266 of the Commerce City Land Development Code and 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: three thousand eighty four dollars and sixty three cents (\$3,084.63).

(3) The minimum fine amount listed in paragraph c above, shall be adjusted for inflation starting July 1, 2021 and on January 1 of each year thereafter. "Inflation" shall mean the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index, currently the index for Denver-Aurora-Lakewood.

(4) Where multiple violations of a single provision are found, the applicable penalty shall be imposed for each count.

(bc) Costs and fees may be assessed against the responsible party in addition to any applicable penalties under this article as follows:

(1) Any fees and/or costs authorized by the city council;

(2) Actual costs of the protest hearing, including, but not limited to, the per-hour fee charged to the city by the hearing officer. In the event the protestant fails to appear at the protest hearing, one (1) hour of hearing officer time shall be assessed against the protestant. In the event a protest hearing is not held

because the protestant has pled liable, has dismissed the protest, or has reached a settlement with the city, the costs provided for in this subsection (b)(2) shall not be assessed;

(3) In an enforcement order, other actual costs incurred by the city in the matter and awarded by the hearing officer, including costs of investigation, staffing costs to prepare for the hearing and conduct the hearing, and all reinspections necessary to enforce compliance;

(4) Reasonable costs of abating the violation, if applicable, plus an administrative fee equal to fifteen (15) percent of the costs of the abatement unless administrative costs have been awarded.

(ed) Penalties, fees, and costs assessed pursuant to this article shall be paid to the city within thirty (30) days after service of a notice of assessment by first-class U.S. mail to the responsible party; provided, however, that if the property is occupied by someone other than the owner of the property, the notice of assessment shall be mailed to both the occupant and the owner. Service shall be deemed complete upon depositing the notice of assessment in the United States mail, postage prepaid. The failure of any person to receive any assessment required under this chapter shall not affect the validity of the assessment or any collection efforts under this section.

(de) The city shall assess a late fee in an amount set by city council resolution if the responsible party fails to pay any assessment in full within the thirty-day period.

(ef) Failure to pay any such assessment within the thirty-day period shall cause the unpaid amount of the assessment plus any late fee to become a lien against the property identified in the notice of assessment, which lien shall be a first lien having priority over all liens of whatever kind or nature, regardless of date, except general taxes and prior special improvement district assessments. Furthermore, at any time after such failure to pay the assessment and late fee, the same may be certified by the city to the county treasurer, as provided by state statute, to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with a fifteen (15) percent penalty added to defray the cost of collection.

(fg) The city manager may refer any unpaid fines, fees, and costs for collection by whatever means are available to the city. 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.