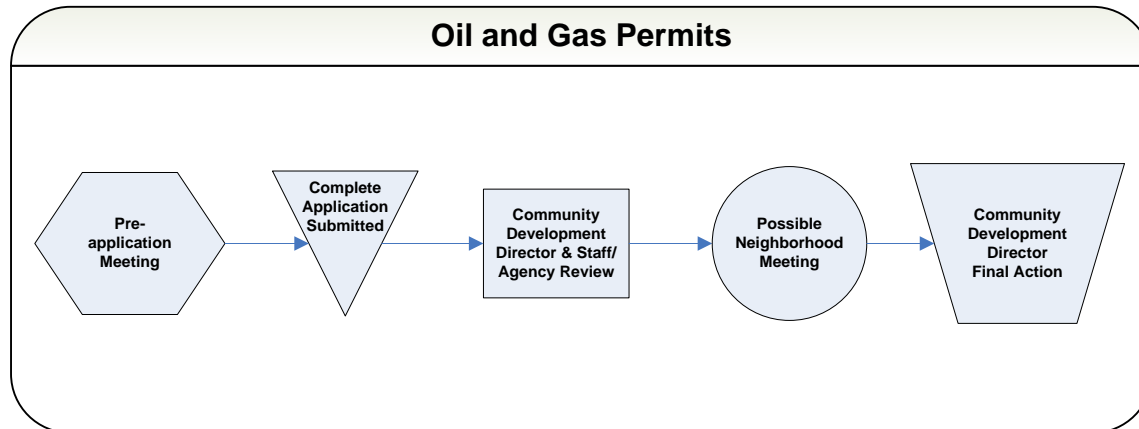


Sec. 21-3216. Oil and Gas Permits

- (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.** Unless specifically allowed by the director, no building permit shall be issued, and therefore no development, excavation, site preparation, or construction activity, including tree/vegetation removal or grading, shall occur on any property 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 nature of these comments can be in favor of the proposed Oil and Gas Permit, against the proposed Oil and Gas Permit, provide additional information regarding the Oil and Gas Permit, or ask further questions regarding the Oil and Gas Permit.~~ 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) **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.*
- ~~(3)~~(6) **Review.** The Director and the DRT review Oil and Gas Permits. The Director is authorized to approve, approve with conditions, or deny *an* Oil and Gas ~~Permits~~*Permit* based on the criteria below.

Figure III-6. Oil and Gas Permits



~~(4)~~(7) **Approval Criteria.** An Oil and Gas Permit may be approved ~~if the application submitted by the Operator conforms to the following requirements~~ *by the Director if:*

- (a) The Operator has submitted the appropriate and complete application form and submitted the required ~~application fee~~ *fees (except those payable upon the issuance of a permit)* to the City ~~as set forth in this Code;~~
- ~~(a) — The Operator has submitted the required information acceptable to the City sufficient to meet the requirements set forth in this Code.~~
- (b) The Operator has entered into ~~an~~ *a site-specific* Extraction Agreement ~~as set forth in this Code,~~ *approved by the Director, addressing matters of public health, welfare, and safety;*
- ~~(b) — The Operator has provided information acceptable to the City sufficient to demonstrate that it will meet the requirements regarding compliance with the General Standards as set forth in this Code.~~
- ~~(c) — The Operator has provided information acceptable to the City sufficient to demonstrate that it will meet the requirements regarding Site Development as set forth in this Code.~~
- ~~(d) — The Operator has provided information acceptable to the City sufficient to demonstrate that it will meet the requirements regarding Odor/Dust Containment as set forth in this Code.~~
- (c) The Operator has provided information acceptable to the City sufficient to demonstrate that it will meet the requirements ~~regarding Noise Impacts~~ *for Subsurface Extraction* as set forth in ~~this Code.~~ *Section 21-5266;*

Ordinance 2183

Exhibit C

- (d) *The proposed Oil and Gas Well Operation will not violate any standards or conditions for Subsurface Extraction as set forth in Section 21-5266 and any other applicable city standards or laws;*
- (e) *The proposed site is within an Agricultural or Industrial zoning district, or within a PUD zoning district where Oil and Gas Wells are specifically listed as an allowed or permitted use, or, if the applicant demonstrates that no other reasonable alternative to access the oil and gas mineral interest exists, then within any other zoning district where such use is authorized by the Land Use Table (Table V-1); and*
- (f) *The application, and all proposed Operations, shall comply with all applicable state, federal and local law, regulations, and standards. The Director may rely upon the issuance of a permit by a state agency as prima facie evidence of compliance with the relevant state law, regulations, and standards, under the purview of the issuing state agency.*

~~(e) The Operator has met or has demonstrated that it will meet the requirements regarding traffic acceptable to the City Engineer as set forth in this Code.~~

~~(f) The Operator has provided sufficient information acceptable to the City to meet the Financial Assurances set forth in this Code.~~

~~(5)~~(8) **General Terms of Approval.** *The following General Terms and Conditions of the shall apply to any Oil and Gas Permit.*

- (a) The term of the Oil and Gas Permit shall be coterminous with the length of any state permit issued by the COGCC allowing Operations on the Site that is the subject of the City's permit *unless the permit expires, lapses, or terminates as stated in this Section or has been revoked.* ~~Any extension of a permit granted by the COGCC shall automatically result in a similar extension of the term of the Oil and Gas Permit.~~
- (b) 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.
- (c) The Oil and Gas Permit shall expire upon abandonment and reclamation of the permitted Operation.
- (d) The Oil and Gas Permit and ~~or~~ 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.

(e) *The Operators shall obtain and maintain a general business license prior to commencing operations and conform to applicable provisions of the Commerce City Municipal Code related to licensing.*

(f) *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 then in effect.*

~~(e)~~(g) 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.

~~(6)~~(9) **Lapse/Permit Period.** 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.

(10) ***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. The right to operate any non-conforming Operations terminates if the use thereof is discontinued for six (6) months or more.*

~~(a)~~(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.*

(11) ***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 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.*