

ORDINANCE NO. 2183

INTRODUCED BY: DAVIS, DOUGLAS, ELLIOTT, FORD, FRANK, GUARDIOLA,
HUSEMAN, MADERA, TETER

AN ORDINANCE AMENDING SECTIONS 21-3200, 21-3425, 21-3216 AND 21-5266 OF THE LAND DEVELOPMENT CODE OF THE CITY OF COMMERCE CITY RELATING TO THE OIL AND GAS PERMITS AND SUBSURFACE EXTRACTION REQUIREMENTS AND RELATED PROCEDURAL MATTERS

WHEREAS, oil and gas companies believe that the geology underlying the City of Commerce City ("Commerce City") contains marketable amounts of oil and gas resources that can only be accessed through horizontally-drilled, hydraulically fractured wells from well pad locations within or near Commerce City;

WHEREAS, unregulated, or under-regulated, oil and gas exploration and extraction related operations may represent serious dangers to Commerce City with respect to the health, safety, and welfare of the public, the social fabric of the community, and Commerce City's infrastructure and property;

WHEREAS, the City Council desires to ensure the harmonious application of both state and local regulations pertaining to oil and gas exploration and extraction operations while ensuring the maximum protection of the public's health, safety, and welfare;

WHEREAS, by virtue of the Article XX, Section 6 of the Constitution of the State of Colorado and the Charter of the City of Commerce City, including but not limited to Sections 2.2 and 10.8, and as further authorized by state law, including, but not limited to, Sections 29-20-101 *et seq.*, 31-15-401 *et seq.*, and 31-23-301 *et seq.* of the Colorado Revised Statutes, Commerce City has broad authority to exercise its zoning and police powers to promote and protect the health, safety, and welfare of the community and the public, including with respect to oil and gas exploration and extraction activities and associated land uses;

WHEREAS, Commerce City has established generally applicable, comprehensive regulations relating to zoning and land use, building safety, nuisances, streets and public rights-of-way, storm drainage, and motor vehicles and traffic;

WHEREAS, through Ordinance 1891, Commerce City enacted regulations relating to Oil and Gas Permits and Subsurface Extraction in 2012 through its police powers and zoning authority, which regulations were primarily codified as Section 21-3216 and 21-5266 of the Land Development Code ("LDC");

WHEREAS, the present regulations of Commerce City need to be amended in light of recent court decisions, current regulatory best management practices, updated COGCC Rules, Commerce City's growth, current technologies of the oil and gas exploration and extraction industry, and continuing concerns for risks to the community's health and property;

WHEREAS, owners of mineral rights in Commerce City and other beneficiaries of oil and gas exploration and extraction operations, a highly regulated industry, will not be unfairly prejudiced by the enactment of this ordinance;

WHEREAS, this ordinance is enacted to safeguard the lives and properties of the residents

of Commerce City and the general public pursuant to Commerce City's home rule authority under Article XX, § 6 of the Constitution of the State of Colorado and pursuant to the Commerce City's police powers and land use regulation powers;

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

SECTION 1. The recitals to this ordinance are hereby adopted by and incorporated as findings of fact of the City Council.

SECTION 2. Section 21-3200 (Required Review) of the Land Development Code is hereby amended as set forth in Exhibit A, attached and incorporated by reference.

SECTION 3. Section 21-3425 (Appeal Forums) of the Land Development Code is hereby amended as set forth in Exhibit B, attached and incorporated by reference.

SECTION 4. Section 21-3216 (Oil and Gas Permits) of the Land Development Code is hereby amended as set forth in Exhibit C, attached and incorporated by reference.

SECTION 5. Section 21-5266 (Subsurface Extraction) of the Land Development Code is hereby amended as set forth in Exhibit D, attached and incorporated by reference.

SECTION 6. The passage of this ordinance is necessary for the preservation of the public health, safety, welfare, and economic well-being of Commerce City for the reasons set forth in this ordinance.

SECTION 7. Except as specifically set forth herein, the provisions of the Commerce City Revised Municipal Code shall remain unchanged and in full force and effect.

SECTION 8. This ordinance shall become effective on November 5, 2018.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED
THIS 15TH DAY OF OCTOBER 2018.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THIS 19TH DAY OF NOVEMBER 2018.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, MMC, City Clerk