

EXHIBIT A TO ORDINANCE 2266 (REDLINE FOR REFERENCE ONLY)

(Blue underlined text indicates new material; red strikethrough text indicates deletions; italics indicates moved text.)

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. 7
- ~~(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-Aurora-Lakewood, all items, all urban consumers, or its successor index.
 - (4) 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.
- ~~(e)~~ All penalties imposed and fees assessed shall be payable to the city.
- ~~(d)~~ 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.
- ~~(e)~~ 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.

EXHIBIT B TO ORDINANCE 2266 (~~REDLINE FOR REFERENCE ONLY~~)

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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~~Code, and to receive feedback on the proposal early in the review process.
- (2) **Applicability.**— The ~~city~~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. ~~A minimum of one neighborhood meeting shall be required for all oil and gas permit applications.~~
- (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~~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.

EXHIBIT C TO ORDINANCE 2266 (REDLINE FOR REFERENCE ONLY)*(Underlined text indicates new material; strikethrough text indicates deletions; italics indicates moved text.)***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~~. 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
Oil and Gas Permits	R	R				§ 21-3216	§ 21-3216
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
Oil and Gas Permits	R	R	H	H		§ 21-3235	3 years
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							
Planned Unit Development (PUD)							
Concept Schematics	R	R	H ¹			§ 21-3250	n/a

APPLICATION TYPES	REQUIRED REVIEWS					REFERENCE	LAPSE PERIOD
	Staff	DRT	PC	CC	BOA		
Administrative Applications							
Zone Documents/Amendments	R	R	H	H		§ 21-3251	n/a
Development Permits	R	R	H ¹	H ¹		§ 21-3252	2 years
Subdivisions							
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 required)	R	R	H	H		§ 21-3241	60 days

Key	
PC	Planning Commission
CC	City Council
BOA	Board of Adjustment
DRT	Development Review Team
H	Public Hearing
H ¹	Hearing upon appeal from staff decision or from director or city council request
H ²	Hearing upon appeal from staff decision or by request of director, city council, or public
H ³	Hearing on appeal of zoning related matters. Appeals related to building matters are heard by the board of building appeals.
R	Review
R ¹	Review requested by director
R ²	Review requested by floodplain administrator

Section amended by Ord. 1891, August 2012
Section amended by Ord. 2183, November 2018

(4)

EXHIBIT D TO ORDINANCE 2266 (~~REDLINE FOR REFERENCE ONLY~~)

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Sec. 21-3235. Oil and Gas Permits

~~(1)~~**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)~~**2. Requirement.** ~~Unless specifically allowed by the director, no~~**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 in connection with a Well Site until an Oil and Gas Permit has been approved in accordance with this section.

~~(3)~~**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)~~**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~~a recommendation 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 whether or not the sites proposed by the applicant meet the criteria defined herein. 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 use, platted residential use, or property zoned 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 1,000' from the following:

- 1. Public Water Supply Wells; and
- 2. Reservoirs;

3. Is outside of FEMA 100 Year Floodplain boundary, any surface water features, areas defined as land unsuitable for development in section 21-7100; and

4. Meets at least **one** of the following criteria;

- 1. 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

2. Has a future land use designation of
Industrial / Distribution, General
Industrial, or DIA Technology.

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 the site is not deemed
eligible pursuant to the limited exception, 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. One or more maps identifying Disproportionately
Impacted Communities, as defined by the COGCC,
within 1 mile of all drilling and spacing units proposed
by the applicant;

3. The location of all features listed in section 21-
3235(5)(b)(i) within 1 mile of all drilling and spacing
units proposed by the applicant;

4. 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:

1. General narrative description of each
site;

2. The applicant's basis for proposing
each site;

3. A summary of the off-site impacts that
may be associated with each site;

4. Any factors listed in section 21-
3235(5)(b)(i) that the particular site
does not meet;

5. Proposed truck traffic routes and access roads for each site;
 6. Any executed surface agreements between the operator and any landowners within 1 mile of all drilling and spacing units proposed by the applicant; and
 7. Any information pertinent to the applicable review criteria that will assist the City in evaluating the sites.
5. In the event significant site constraints limit the reasonable submission of at least three sites, the applicant may propose in writing what specific circumstances prohibit other sites to be considered. The Director may waive the requirement of up to two (2) additional sites, based on the applicant's submission.
- 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 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 an 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 complete zoning application is concurrently submitted, or is currently pending, that would allow Oil and Gas Operations at the proposed location if approved.
- 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.

~~(5)~~**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~~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.

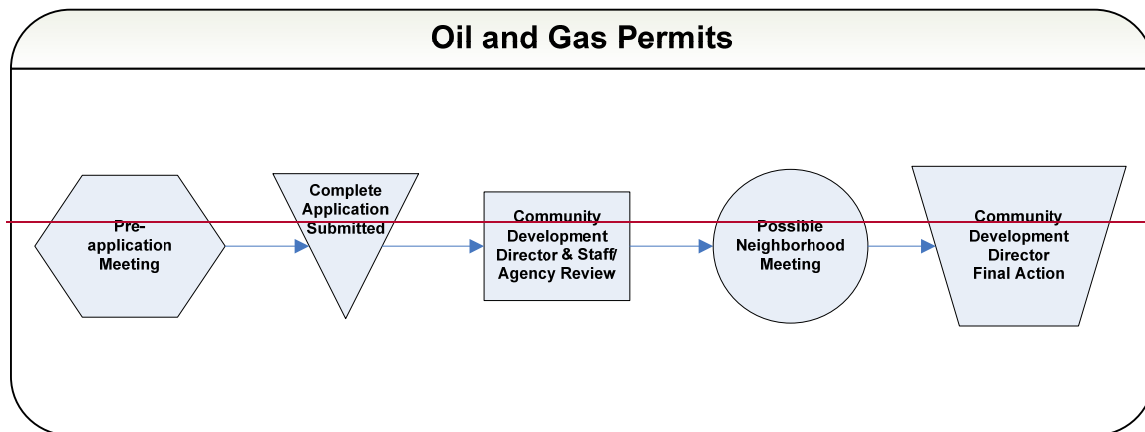
a. The applicant shall obtain an eligibility letter, through the initial assessment process described in 21-3235(5).

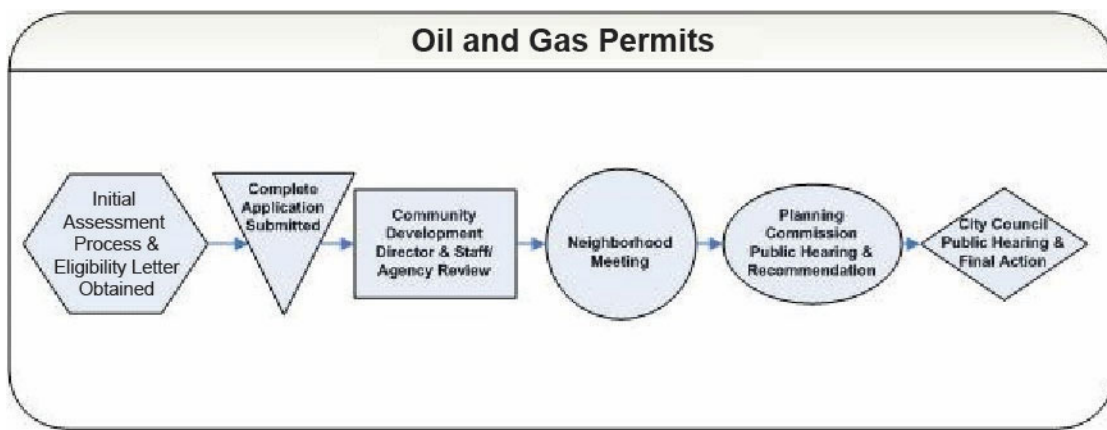
b. The Director and ~~the~~ DRT review applications for Oil and Gas Permits. The Director ~~is authorized to~~ provides a report to the Planning Commission regarding the acceptability of the application based upon the approval criteria listed in 21-3235(8).

c. 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.

~~(6)~~d. 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 an Oil and Gas Permitthe application, based on the approval criteria below.

Figure III-6. Oil and Gas Permits





~~(7)~~**8. Approval Criteria.**— An Oil and Gas Permit may be approved ~~by~~if all of the ~~Director if:~~following criteria are met:

- ~~(a)~~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 21-3235(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 reasonably foreseeable 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 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;

~~(b)~~h. The Operator has entered into a site-specific Extraction Agreement, approved by the Director, addressing 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, and the environment;

i. The Operator has provided information acceptable to the City sufficient to demonstrate that itThe 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;

~~(c)~~(a) The proposed operation will meet the requirements for Subsurface Extraction as set forth in Section 21-5266;~~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 cityCity, state, or federal standards or laws;~~

~~(d)~~ 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

~~(e)~~ 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.

~~(8)~~**9. General Terms of Approval.** The following General Terms and Conditions 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.~~

~~(e)~~**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.

~~(e)~~ ~~The Oil and Gas Permit shall expire upon abandonment and reclamation of the permitted Operation.~~

~~(g)~~**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.

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

~~(k)~~**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 ~~then in effect~~.

~~(m)~~**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. Lapse/Permit Period-; Lapse; Forfeiture.

a. The term of the Oil and Gas Permit shall be for three (3) years except as otherwise stated herein. Upon issuance of final approval from the State permitting the commencement of 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 approving an oil and gas location assessment (Form 2A)

unless the Oil and Gas Permit 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.

i. 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 issuance of a new Oil & Gas Permit.

ii. At least six months prior to forfeiture, an Operator may seek one-time relief from forfeiture if, upon formal application to the Director, the Director finds by clear and convincing evidence that (1) no additional adverse health, safety, general welfare, or environmental impacts would occur, and (2) the surface use conditions and surrounding land uses that are either existing or planned have not changed to such a degree that current approval criteria could no longer be met. In such case, the Director's authority to grant such an extension of the drilling and completion deadline shall be limited to (1) one extension, and (2) no longer than one year. Any other extensions to avoid forfeiture beyond the extension described above shall require the approval of City Council and shall be based on these same criteria. All application extensions shall require the written consent of the surface owner.

~~(9)~~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.issuance of either a state permit or city permit, whichever occurs later. 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)~~**11. Permit Exceptions.**

~~(a)~~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)~~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, applicable at the time of permit approval.

b. The Director 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 Director 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.

~~(11)~~13. Regional Operator Agreement.

~~(a)~~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)~~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)~~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)~~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)~~e. _____ A ~~regional~~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)~~f. _____ The Director may seek input from the City Council regarding the negotiation and terms of any Regional Operator Agreement.

~~(g)~~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 Director. The Director may consent to an assignment of a permit only if:

a. 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;

b. The new Operator demonstrates adequate insurance and posts financial assurances required of the previous Operator;

- c. The new Operator will remedy any on-site noncompliance with any applicable local or state regulations and permits, as a condition of the assignment;
- d. The Oil and Gas Permit was approved more than 90 days before the assignment.

If an Operator files a petition for assignment, the director shall prepare a report for the City Council that demonstrates the proposed transfer's compliance with the approval criteria stated in 21-3235(14)(a-d), and the director's final determination on the assignability of such permit.

Section added by Ord. 1891, August 2012

~~(1)~~

Section amended by Ord. 2183, November 2018

USES ALLOWED BY ZONING DISTRICT																		
R = ALLOWED BY RIGHT P = USE BY PERMIT C = CONDITIONAL USE OG = OIL & GAS PERMIT BLANK CELL = EXCLUDED																		
USE CLASSIFICATION	SPECIFIC USE TYPE	NAICS CODE	R-1	R-2	R-3	R-4	MHP	C-1	C-2	C-3	MU-1	I-1	I-1S	I-2	I-3	AG	PUBLIC	ADDITIONAL REGULATIONS
Resource Extraction	Borrow pit	212319													C	C		21-5222
	Construction sand and gravel mining	21232													C	C		
	Minerals and earths: quarrying, extracting, grinding, mining, crushing, and processing	212													C	C		
	Ore dumps and elevators	212													C	C		
	Subsurface extraction (including oil and natural gas extraction)	211-213	OG	OG	OG	OG	OG	OG	OG	OG	OG	OG	OG	OG	OG	OG		21-5266
Toxic / Hazardous Uses	The parking and storage of toxic or hazardous material														C			21-5239
	The manufacturing, processing, use, sale, or storage of any flammable, corrosive, explosive, or toxic substance														C			21-5239
Truck / Transportation Services	Private Bus Station with repair											P	P	R				
	Private Bus Station without repair									P		R	C	R				
	Transportation terminal	488490										C		R	R			21-5270
	Transportation terminal where vehicles carry flammable, explosive, hazardous, or high toxic materials														C			21-5270
	Trailer sales and service limited to use for private passenger motor vehicles									R		R	R	R	R			21-5272
	Truck sales (non-trailer)												R	R	R	R		21-5272
	Truck stop (natural gas sales)	488490										C	C	C	C			21-5270
	Truck and/or truck trailer sales, repair, and/or maintenance (including oil, lube, and/or wash)	811111										*	*	R	R			21-5218
Warehousing & Distribution	Commercial indoor self-storage facility									R		R	R	R	R			21-5225
	Household moving center	4842										R	R	R	R			
	Motor freight transportation terminal and shipping, excluding couriers	4841										R	R	R	R			
	Mini-storage and warehouse with outdoor storage	531130												R	R			21-5250
	Mini-storage and warehouse without outdoor storage	531130											R	R	R	R		21-5250
	Produce storage and warehousing	49313											R	R	R	R		
	Retail sales in conjunction with warehouse establishment												R	R	R	R		
Warehousing and storage, general	4931											R	R	R	R			
Waste-Management and Remediation Services	Composting facilities (non-hazardous)	56221													C	C		
	Hazardous waste collection, treatment, and disposal	562211													C	C	C	21-5258
	Landfill, construction/demolition	562219													C	C	C	21-5244
	Landfill, solid waste	562212													C	C	C	21-5244
	Radioactive waste handling	562211													C			
	Recycling facilities/material resource recovery facility	56292													C		R	21-5256
	Scrap metal collection and transfer facility	56292													C			21-5258
	Solid waste combusters and incinerators	56221												C	R			
	Tire collection, reduction and transfer facility (including scrap tires)	56211													C			21-5260
Refuse transfer facility and/or transfer facility														C			21-5258	

EXHIBIT E TO ORDINANCE 2266
(Underlined text indicates new material; strikethrough text indicates deletions.)

EXHIBIT F TO ORDINANCE 2266 (REDLINE FOR REFERENCE ONLY)

(Underlined text indicates new material; strikethrough text indicates deletions; italics indicates moved text.)

Sec. 21-5266. Subsurface Extraction

~~(1) **Purpose.** This Section is enacted pursuant to the land use authority and the police powers of the City and following the procedures described within, in order to protect and promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future residents of the City. It is recognized that under state law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners or lessees of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of this Section and any other applicable statutory and regulatory requirements. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a respectful manner and to have adverse land use impacts upon their property associated with the development of the mineral estate minimized and mitigated through compliance with this Section and by mutual accommodation of the surface and mineral owners.~~

(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.

~~(1)(2) **Applicability.**—~~

- (a) Subject to the provisions of this ~~Section~~section, no Oil or Gas ~~Well~~ Operations (“Operations”) shall be initiated in any manner within the ~~city~~City prior to issuance of an Oil and Gas Permit.
- (b) All Operations are subject to the requirements of this section, Section. ~~In the event that the 21-3235, and other parts of this code directly addressing Operations. If such provisions of this Section~~directly conflict with any other generally applicable provisions of the Code, sections of this Section~~code directly addressing Operations~~ shall supersede ~~as applied to Operations~~but such conflict shall not alleviate an Operator from obtaining any required permits or approvals.

~~(2) **Application Requirements.**~~

~~(a)(3) **Application Requirements.**—~~ An application for an Oil and Gas Permit shall include the following ~~information~~:

- ~~(i)~~(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 ~~accurate~~ 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;
- ~~(ii)~~(d) A legal description of the ~~lease~~ property to be used for the Operation;
- ~~(iii)~~ Map showing proposed transportation routes and roads for equipment, chemicals, water, Oil and Gas, and waste products used or produced by the Operation;
- ~~(iv)~~ Proposed well name;
- ~~(v)~~ Surface owner name(s), telephone number(s), address(es), and if possible, email address(es) of the leased property;
- (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;
- ~~(vi)~~(g) Operator/ and applicant name(s), telephone number(s), address(es), and if possible, email address(es); if the ~~operator~~ Operator is a corporation, the state of incorporation, and if the ~~operator~~ Operator is a partnership, the names and addresses of the general partners;
- ~~(vii)~~ Name, telephone number, address, and if possible, email address of the individual designated to receive notice;
- ~~(viii)~~(h) Name of representative with supervisory authority over the proposed Operation and a twenty-four-hour phone number;
- ~~(ix)~~(i) Location and description of all improvements, including water wells, and habitable structures ~~within one thousand five hundred feet (1500')~~, all utility easements and rights of way of record, and all existing irrigation and drainage ditches within 1500' of the proposed Operation;

- ~~(x)(j)~~ Owner and address of each parcel of property within ~~two thousand five hundred feet (2500')~~ of the proposed Operation;
- ~~(xi)(k)~~ The location of existing sensitive wildlife, ~~nature habitats, natural~~ areas, or open space within ~~one thousand five hundred feet (1500')~~ of the well site or ~~production site~~Production Site, if any;
- ~~(xii)(l)~~ A ~~site plan~~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;
- ~~(xiii) For private access roads connecting Operations with a public street or state highway, the Operator shall provide written documentation as part of the permit application demonstrating that it has the legal right to use such road(s) for the purpose of accessing the Oil and Gas Facilities.~~
- ~~(xiv) A description of public utilities required during drilling and operation;~~
- ~~(xv)(m) A description of~~Water Plan describing the water ~~source(s)~~sources to be used ~~during drilling for the Operations and the proposed method of delivery;~~
- ~~(xvi) A description of how waste products will be managed for the Operation;~~
- ~~(xvii) A description of storm water pollution prevention~~A specific plan and erosion control plan pursuant to the city's standards;
- ~~(xviii) A copy of the hazardous materials management plan. In addition to the hazardous materials management plan, all material safety data sheets (MSDSs) for all hazardous materials that will be located, stored, transported, and/or temporarily used in conjunction to the Operation shall be provided to the city and fire district;~~
- ~~(xix) A copy of the emergency response plan as required by the city;~~
- ~~(xx) A copy of an emergency evacuation plan shall be provided, detailing all persons to be notified in the event of an evacuation, including without limitation, all persons residing within one-half (1/2) mile of the edge of construction or surface disturbance;~~

~~(xxi)(n)~~ Evidence ~~ofto satisfy~~ insurance and ~~security~~financial
assurance requirements under this section;

~~(xxii)~~ ~~A copy of the noise management plan, for any equipment used in the drilling, completion, or production of an Oil and Gas Well;~~

~~(xxiii)(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;

~~(xxiii)~~ ~~Copies of all information submitted to the COGCC to include but not limited to:~~

~~. The proposed location of Production and Oil and Gas Facilities in the event production is established.~~

~~. The layout of the Oil and Gas Facilities, including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.~~

~~. The following information within a radius of 1500 feet of the proposed well:~~

~~0) Existing surface improvements;~~

~~0) Existing utility easements and other rights-of-way of record; and~~

~~0) Existing irrigation or drainage ditches.~~

~~(xxiii)~~ A plan for weed control at the Oil and Gas Facilities and addressing the requirements set forth in subsection 5(g)(ii);

~~(xxiii)~~ A sanitary facilities plan that complies with city and COGCC regulations;

~~(xxiii)~~ A lighting plan;

~~(xxiii)~~ A revegetation plan and information addressing the requirements set forth in subsection 5(g)(ii);

~~(xxiii)~~ A wildlife mitigation plan, if applicable, addressing the requirements set forth in subsection 5(g)(iii);

~~(xxiii)~~ A traffic impact study addressing the requirements set forth in subsection 7(a);

- ~~(xxiii) An alternative location analysis for any proposed site not within an Agricultural or Industrial zone district or PUD zone district where Oil and Gas Wells are specifically listed as an allowed or permitted use, to demonstrate the absence of any other reasonable alternative to access oil and gas mineral interests, consistent with Sec. 21-3216(7)(e).~~
- ~~(xxiii) A list of all permits or approvals obtained or yet to be obtained from local, state, or federal agencies, other than the COGCC~~
- ~~(xxiii) A public improvement agreement (if applicable); and~~
- (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” (detailing 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;

- (u) An Air Quality Mitigation Plan showing a modeling assessment of cumulative 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 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, which shall provide that the equipment be stationed in locations as to be readily available for any emergency for any oil and gas facility covered by the plan;
- (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 the COGCC Rule 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 mitigation measures;
- (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 1/2 mile of a sensitive wildlife habitat or open space; and

~~(xxiv)~~(pp) Any other information that the cityCity deems necessary for consideration of an Oil and Gas Permit application, which information may be requested after an application is submitted.

~~(b)~~**(4) Third Party Technical Review.** The City may require ~~a~~—third-party ~~consultant~~consultants to participate on behalf of the City in ~~pre-application meetings, the Initial Assessment Process,~~ to review any submittals or applications to the City, attend meetings, 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

~~(3)~~**(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 FAA Regulations relative to building height and locations; and~~

~~(c)~~(b) Comply with the BMP Document and any Regional Operator Agreement or Extraction Agreement ~~executed~~ with the City.

~~(3) Site Development.~~

~~(-) Visual Mitigation Plan Required. Applications for Oil and Gas Permits may be required to include a visual impact analysis when the Operation will be located adjacent to or in the vicinity of current or future residential and/or commercial land uses, as determined by the Director. When required, the Visual Mitigation Plan shall include photographic simulations of the Oil and Gas Well Site that include proposed impact mitigation measures as indicated below. The Director will determine if the proposed Oil and Gas Well Site requires a photographic simulation based upon topography, existing vegetative and/or structural screening and the linear distance from the proposed Operations to residential and/or commercial land use(s).~~

~~(-) Visual Mitigation Methods. One or more of the following visual mitigation methods may be required on a site specific basis: Use of low-profile tanks, facility painting, vegetative or structural screening, land berming and landscaping.~~

~~(xxiv) Where the painting of an Oil and Gas Facility or any structural screening (i.e., fence or wall) is required as a method of visual impact mitigation, such Oil and Gas Facility and screening shall be painted a uniform, non-contrasting, non-reflective color. The Oil and Gas Facility or structural screening paint color shall be matched to the land, not the sky, and shall be slightly darker than the adjacent landscape.~~

~~(xxiv) Any exposed concrete shall be colored to match the soil color.~~

~~(xxiv) To the maximum extent feasible, the Operator shall use structures of minimal size to satisfy present and future functional requirements.~~

~~(xxiv) At all times, the Operator shall minimize the removal of existing vegetation.~~

~~(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.

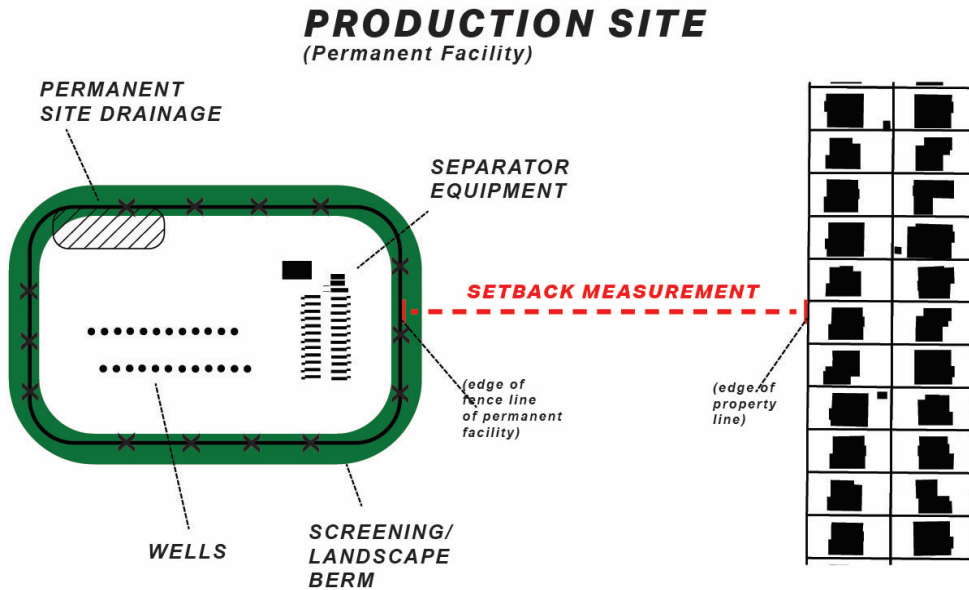
~~(a) No Oil and Gas Production Site may be located within 1000' of the following existing conditions:~~

~~(i) Any residential use or platted residential property;~~

~~(ii) Any Public Park or public recreation facility, not including trails or city designated open space;~~

- (iii) Outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar place of outdoor public assembly;
 - (iv) Senior living or assisted living facilities;
 - (v) Public Water Supply Wells; and
 - (vi) Reservoirs.
- (b) No Oil and Gas Production Site may be located within 1,500' of ten (10) or more existing residential or platted residential properties, or any building classified as a High Occupancy Building Unit, as defined by the COGCC;
- (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 over 10 acres in size with residential uses, the measurement shall be taken from the nearest edge of any occupied dwelling unit.

Figure V-4. Setback Measurement for Oil and Gas Facilities



- (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, appear compatible with adjacent existing and reasonably anticipated land uses, or obfuscate the site. Staff may consider surface owner preferences. Oil and gas development near planned residential or commercial development may require a staged Visual Mitigation Plan.

~~(a)(b)~~ Fencing. Above-ground Operations shall be fenced and gated ~~with~~ 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 ~~approved~~ an equivalent. ~~The fencing color shall, or better, as approved in the Visual Mitigation Plan. Eight-foot (8') high masonry may be black unless the Director approves used as an alternative fencing color.~~ alternate.

~~(b)(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; to improve Well Site security; 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.

~~(xxv)(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. ~~Proper~~ Adequate irrigation of plant materials (excluding existing vegetation) shall be provided by the Operator, ~~except that automatic irrigation systems are not required if no direct water connection is available within 500 feet.~~

~~(xxv)~~ The City may require landscaping to mitigate visual impacts, and one or more of the following landscape criteria may be required. The specific requirements for landscape screening and buffering shall be determined by the Director and may include, but not be limited to:

- ~~— Earthen berm located around the perimeter of the fence and planted with turf grass or ground cover generally recognized by landscape architects and horticulturalists for local area use for the purpose of general screening;~~
- ~~— Installation of ground cover, trees and shrubs for screening and aesthetic purposes; and~~
- ~~— Designing the Oil and Gas Facility to utilize natural screens where possible.~~

~~(g)~~(d) Lighting.— To the maximum extent ~~practical~~practicable, exterior lighting shall be downcast to reduce spill-over to adjacent properties and directed away from residential and ~~other~~ sensitive wildlife 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.

~~(g)~~— Signs and Markers.— The Operator shall mark each and every Oil and Gas Well ~~in a conspicuous place, from the time of initial drilling until final abandonment, as follows:~~

~~(xxvii)~~(e) General Sign Requirements.— ~~No signs required under this Section shall be installed at a height exceeding six (6) feet. Operators shall maintain signs in a legible condition and shall replace damaged or vandalized signs within sixty (60) days. New or successor Operators shall update signs within sixty (60) days after change of Operator approval is received from the COGCC in the BMP Document.~~

~~(xxvii)~~ Drilling and Recompletion Operations.— The Operator shall provide directional signs, no less than three (3) and no more than six (6) square feet in size, during all drilling and recompletion Operations. Such signs shall be at locations sufficient to advise emergency crews where drilling or recompletion is taking place. At a minimum, 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. Signs not necessary to meet other obligations under these rules shall be removed as soon as practical after the Operation is complete.

~~(xxvii)~~ Permanent Designations.

- ~~Oil and Gas Wells. Within sixty (60) days after the completion 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.~~
- ~~Tank Batteries and Other 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) square feet and no more than six (6) square feet, 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. In lieu of providing the legal location on the permanent sign, it may be stenciled on a tank in characters visible from one hundred (100) feet away.~~
- ~~Tanks and Containers.~~
 - ~~0) All tanks with a capacity of ten (10) barrels or greater shall be labeled or posted with the following information:~~
 - ~~) Name of Operator;~~
 - ~~) Operator's emergency contact telephone number;~~
 - ~~) Tank capacity;~~
 - ~~) Tank contents; and~~
 - ~~) National Fire Protection Association (NFPA) Label.~~
 - ~~0) Containers that are used to store, treat or otherwise handle a hazardous material and required to be marked, placarded or labeled in~~

~~accordance with the U.S. Department of Transportation's Hazardous Materials Regulations, shall retain the markings, placards and labels on the container until the container is sufficiently cleaned of residue and purged of vapors to remove any potential hazards.~~

~~(t)~~**(8) Environmental Standards.**

~~(xxviii) Floodplain. Operations in hazard areas, including floodplains and man-made (e.g., airport and landfill) conditions shall not be developed for Oil and Gas Facilities and Operations until hazards have been identified and avoided or removed, or until the Operator can show that the impact of the hazard(s) can be mitigated to the satisfaction of the City. A Floodplain Permit is required for Operations in the Floodplain.~~

~~(xxix) Vegetation.~~

~~Existing Vegetation Analysis. Applications for an Oil and Gas Permit shall include an analysis of the existing vegetation at the Oil and Gas Well Site to establish a baseline for re-vegetation upon abandonment of the Oil and Gas Facility or upon final reclamation of the Oil and Gas Site. The analysis shall include a written description of the species, character and density of existing vegetation at the Oil and Gas Site and a summary of the potential impacts to vegetation as a result of the proposed Operation.~~

~~Re-Vegetation. Applications for an Oil and Gas Permit shall include a copy of any COGCC accepted interim and final reclamation procedures and there shall be consultation with City staff regarding site specific re-vegetation plan recommendations.~~

~~Weed Control Plan. Applications for Oil and Gas Permits shall include a copy of a weed control plan that complies with all City requirements for weeds and vegetation under the City's Municipal Code. Oil and Gas Well Sites shall be considered developed property for the purposes of this Section.~~

~~(xxxiii)(a) Wildlife Mitigation Plan.~~

~~a.~~(i) General.– When Operations will be located within or adjacent to a sensitive wildlife ~~or natural~~ area or city designated open space, the Operator shall consult with the Colorado ~~Division of 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 ~~Division of 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.

~~b.~~(ii) Endangered Species. The Operator shall not engage in activities that, ~~in the opinion of the~~ Colorado ~~Division of Parks and~~ Wildlife, or other relevant federal ~~authority, authorities, indicates would~~ threaten endangered species.

~~(xxxiv)~~(b) General Waste Management.

~~c.~~(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.–

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

(c) Sanitary Regulations.–

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

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

~~f.~~(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.–

~~g.~~(iv) During extended construction and maintenance ~~operations~~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.— in compliance with the approved Temporary Sanitary Facilities Plan. Toilets shall not be permitted in any water reservoir area and shall not be permitted where they may pollute a water supply.—

~~(vi)~~(d) Drainage and Stormwater Management.

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

~~h.~~—Stormwater Management. Any application for an Oil and Gas Permit shall include a description of the manner in which stormwater will be managed in accordance with City regulations.— Operations, including the construction and use of access roads, well sites, pipelines and storage areas for equipment and materials, shall meet all stormwater management, erosion control and pollution prevention requirements of the Colorado Department of Public Health and Environment and the City.

~~(3)~~—**Nuisances.**

(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/or~~ 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.

~~(b)(i)~~ Operations shall be conducted in such a manner that noise does not constitute a nuisance or hazard to public health, safety, welfare ~~and/or~~ 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.

~~(-) At a minimum, sound emission levels shall not exceed COGCC standards.~~

~~(-) Operators may be required to provide for additional noise mitigation based on the following site specific characteristics:~~

~~h. Nature and proximity of adjacent development (design, location, use);~~

~~h. Prevailing weather patterns, including wind directions;~~

~~h. Type and intensity of the noise emitted; and~~

~~h. Vegetative cover on or adjacent to the site or topography.~~

~~(-) Based on the foregoing, one or more of the following additional noise abatement measures may be required:~~

~~h. Acoustically insulated housing or covers enclosing any motor or engine;~~

~~h. Screening of the Oil and Gas Well Site or specific noise emitting equipment by a wall or landscaping;~~

~~h. Solid wall of acoustically insulating material surrounding all or part of the Operation;~~

~~h. A noise management plan specifying the hours of maximum noise and the type, frequency and level of noise emitted;~~

~~h. Use of electric powered motors and pumping systems; and~~

~~h. 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.~~

(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.

(4)(10) Traffic— Standards.

~~() — Traffic Impact Study. The City may require applicants for an Oil and Gas Permit to include a traffic impact study, prepared by a vendor pre-approved by the City, which shall clearly identify and distinguish impacts to City roads and bridges related to Oil and Gas Facility construction, Operations and ongoing new traffic generation. Traffic impact studies shall be prepared in accordance with City standards and requirements or other guidelines as identified by the City Engineer. The study shall include a traffic mitigation plan addressing transportation impacts including, but not 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.~~

~~(xxxvi) The Operator shall prepare a traffic control plan for each phase of Operations where City roads will be used for transportation of materials in support of facility construction or Operations.~~

~~(xxxvii)(a) In the event~~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~~submit construction drawings to be prepared by a Colorado licensed civil engineer, in conformance with City standards, for review and approval by the City.— Engineer. Financial assurances shall be required when any Operation requires the construction or reconstruction of public or private roads.

(a)(b) Maintenance.—~~In the event~~ If Operations or ~~other~~related 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~~(e.g. graveling, shouldering, ~~and/or~~paving) as determined in the Traffic Impact Study.

(b)(c) Oil and Gas Well Site Access.— Access to any property from a City street requires a City-issued ~~access~~Right-of-way permit. ~~Access~~ Right-of-way 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.

(c)(d) Private Access Roads.— All private roads used to access or conduct Operations shall be ~~graded for appropriate drainage and surfaced and maintained to provide adequate access for~~constructed in compliance with the ~~Operator's vehicles and emergency vehicles.~~ approved Stormwater Management Plan. The Operator shall comply with City standards regarding vehicle tracking and dust mitigation.

(d)(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.

(e)(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 ~~thirteenseventeen~~ feet ~~six inches (13' 6")~~(17') 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 ~~thirteenseventeen~~ feet ~~six inches (13' 6")~~(17'), 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.

~~(iii) 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.~~

(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, street lights, traffic signals, sidewalks, storm drainage facilities, 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.~~

~~(5)(11)~~ **Prohibition.** The following facilities are prohibited within the City:—

(a) Injection ~~wells~~Wells for disposal of oil and gas ~~exploration~~Exploration and ~~production wastes~~Production Wastes;

~~(b)~~ Gas Storage Wells;

~~(b)(c)~~ Disposal pits;

~~(c)(d)~~ Commercial disposal facilities;—

~~(d)(e)~~ Centralized Exploration and Production wasteWaste management ~~facility~~facilities; and

~~(e)(f)~~ Subsurface disposal facilityand facilities.

~~(e) Temporary housing at an Oil and Gas Facility, including trailers used as temporary housing, recreational vehicles, etc.~~

~~(5) Abandonment and Plugging.~~

(12) Air Quality Standards and Monitoring.

- (a) The Air Quality Mitigation Plan must consider the cumulative impacts to existing air quality and all planned and existing oil and gas operations within one mile of the City. The Plan must describe how the Operator will 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) Ambient Air Monitoring. Operator shall create and submit an air monitoring plan describing how the Operator will conduct baseline monitoring prior to construction of the well site. The plan shall also describe how the Operator will conduct continuous monitoring and collect periodic canister samples (or equivalent method) during the drilling, completion and production phases of development. Air pollutants monitored by canister samples shall include, but are not limited to, methane, VOCs, Hazardous Air Pollutants (HAPs), Oxides of Nitrogen (NOx), Particulate Matter (PM), and Fine Particulate Matter (PM 2.5). At Operator's cost, a third-party consultant approved by the City shall conduct baseline and ongoing air sampling and monitoring. Such sampling and monitoring shall comply with the following requirements:

 - i. Baseline sampling shall be conducted within 500 feet of a proposed facility over a 90-day period.. Baseline sampling shall track levels and changes in monitored air pollutant concentrations. Baseline sampling data shall be provided as part of the Oil and Gas permit submittal.
 - ii. Continuous monitoring for hydrocarbons shall occur during the drilling and completions phase of oil and gas development. Each hydrocarbon monitor shall include a sampling device to automatically collect an air sample when the monitor levels reach a trigger level defined below in (iii). Monitors shall also include meteorological monitoring capabilities. Continuous monitoring may not cease until three years have passed from the date the last well drilled on the site has entered the production phase, unless any use defined in 21-5266(6a) is within 1,000' of the edge of the well site. In such instance, continuous monitoring shall be required until all wells are plugged and abandoned.

- iii. An increase in the detection of hydrocarbon greater than the ambient levels determined during baseline sampling plus the anticipated change based on Operator-provided impacts of modeled operations shall require the Operator to collect a further sample utilizing an 8-hour canister sample immediately after detection.
- iv. In the event a canister sample is triggered, the city shall be notified within one hour after the occurrence of such event. Depending on the circumstances, expedited lab analysis may be required.
- v. 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, the City may require additional air quality sampling or monitoring as deemed reasonably necessary by City. The Operator shall reimburse the City for all costs incurred by the City as a result.

(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 may 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.
- ~~(b)~~(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 (the "Fire District") fire district not less than two (2) hoursone week prior to commencing plugging operations.
- ~~(b)~~ Operators shall notify the City if the flow and gathering lines have been or will be abandoned.
- (d) Operators shall remove all Flowlines 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.
- ~~(c)~~(e) Operators shall provide copies of all COGCC plugging and abandonment reports to the City atconcurrent with filing the same time such are filedreports with the COGCC.

~~(a)(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 initial Oil and Gas Permit may allow any twinning, sidetracking, deepening, The~~ recompleting or reworking of an Oil and Gas Well and relocation of accessory equipment or gathering and transmission lines ~~so long as will be permitted if~~ all applicable City and State ~~regulations applications~~ are ~~met~~ obtained.

~~(5)~~ **Fees.** ~~- This~~ fees identified in this subsection shall apply in addition to any other applicable fees. All fees shall be paid ~~prior to at~~ the ~~commencement of~~ Operations.

~~(b)~~ **Impact Fees.** ~~The Operator shall pay a fee sufficient to pay for all impacts of the proposed Operations to improvements and property owned or operated by the City or used by the general public including, but not limited to: repair and maintenance of roads, bridges, and other transportation infrastructure; and improvements made or to be made by the City to accommodate the Operations and to protect public health, safety and welfare.~~

~~(c)(14)~~ Unless previously established by an adopted impact fee after completion of an impact fee study, the City shall establish a mechanism to assess payment of Impact Fees, within a reasonable time following receipt of an Oil and Gas Permit application is issued.

~~(a)~~ **Professional Fees and Costs.** ~~The Operator shall pay the reasonable expenses paid or to be paid by the City for professional fees and costs incurred from third party consultants, independent experts or other consultants reasonably incurred to process and analyze Oil and Gas Permit applications, and including those incurred pursuant to section (3)(b). The Director may require the Operator to deposit funds with the City prior to the execution of such professional services and based on a reasonable estimate provided to the Director from the independent expert or consultant until a final cost is determined. Professional 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.

~~(c)~~ Where reimbursement to the City or any other party is required by this section, such reimbursement shall be payable immediately upon invoice. The City may require a deposit to cover such costs.

(15) Financial Assurances and Insurance.

(a) Operator shall provide all necessary insurance as set forth in the BMP document.

(b) Financial Assurance.

(i) General Requirement. The Operator shall provide the City with financial assurance as provided in this section and regulations established by the City Manager pursuant to this section.

(ii) Administrative Regulations. The City Manager shall establish administrative regulations for financial assurances consistent with this section. Such requirements shall include, at a minimum, standard language for each type of financial assurance; qualifications for issuing institutions; and procedures for the review, processing, acceptance, replacement, cancellation and termination, use, release, reduction, or aggregation of financial assurances and standby trusts to implement financial assurances. Such requirements shall be reviewed and updated by the City Manager as needed to meet the intent of this section.

(iii) Minimum Requirements.

1. Amount. The financial assurance shall be in the amount of ninety thousand dollars (\$90,000.00), multiplied by the number of approved wells on the associated planned well site. The Financial Assurance (including any existing Financial Assurance) shall be adjusted for inflation on January 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-Aurora-Lakewood, all items, all urban consumers, or its successor index.

2. Term. The financial assurance required by this section shall be provided to the City before the commencement of any work, including Well Pad construction, and shall remain shall be provided until all wells at the Well Site have been plugged and abandoned and the well site has been adequately reclaimed, as determined by the City, unless the financial assurance replaced or released or reduced pursuant to administrative regulations established by the City Manager. No

financial assurance shall be released or reduced unless: (A) alternate financial assurance is provided; or (B) the Director determines that the amount of financial assurance released or reduced is not necessary to ensure the purpose for which it was provided.

3. Type. The financial assurance must be in the form of a surety bond or irrevocable standby letter of credit, or approved combination thereof.

4. Purpose. The Financial Assurance must guarantee, at a minimum, that the Operator will:

A. secure the wells, well sites, associated well site lands and infrastructure; plug and abandon all wells at the well site in compliance with State law, and reclaim the well site in compliance with State law;

B. perform all requirements of the Oil and Gas Permit and Extraction Agreement (and Regional Operator Agreement, if applicable) for the well site;

C. provide an alternate financial assurance and obtain the City's written approval of such alternate financial assurance upon the issuing institution's cancellation or failure to extend a financial assurance, as provided in this section; and

D. guarantee that, if the Director notifies the issuing institution that the Operator has failed to do any of the foregoing or the occurrence of any event providing for an authorized use as defined in this section, the issuing institution will pay the amount of the bond or letter of credit into a standby trust fund.

(iv) State Bonding Requirements. The financial assurance required by this section shall not be 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) Financial Setback Notification. Operator shall notify the City of the existence of the occurrence of any of the following events

within five (5) business days of their occurrence, provided notification by the Operator shall not be a condition to the City's use of any financial assurance: The Operator files for protection under the bankruptcy laws, makes an assignment for the benefit of creditors, appoints or suffers appointment of a receiver or trustee over its property, files a petition under any bankruptcy or insolvency act or has any such petition filed against it which is not discharged within ninety (90) days of the filing thereof;

(vi) No Liability for Claim. 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.

~~(c) Fees shall be paid from the Operator's deposited funds. Operator's funds not expended but previously deposited shall be refunded to the Operator at the conclusion of the review.~~

~~(5) **Financial Assurances.**~~

~~(c) Insurance:~~

~~(-) Commercial General Liability Insurance. The Operator shall procure and maintain throughout the lifetime of the Operation a policy of comprehensive general liability insurance, or a self-insurance program approved by the Colorado Insurance Commission, insuring the Operator, and naming the City as an additional insured, against any liability for personal injury, bodily injury or death arising out of the Operations with coverage of at least one million dollars (\$1,000,000) per occurrence~~

~~(-) Comprehensive Automobile Liability Insurance. The Operator shall procure and keep in force during throughout the lifetime of the Operation a policy of comprehensive automobile liability insurance insuring the Operator, and naming the City as an additional insured, against any liability for personal injury, bodily injury or death arising out of the use of motor vehicles and covering operations on or off the Site of all motor vehicles controlled by the Operator or its subcontractors that are used in connection with the Operations, whether the motor vehicles are owned, non-owned or hired, with a combined single limit of at least one million dollars (\$1,000,000).~~

~~() Unless the Operator is self-insured, insurance required by this Section shall be with companies qualified to do business in the State of Colorado and may provide for deductible amounts as the Operator deems reasonable, but in no event greater than Ten Thousand dollars (\$10,000.00). The Operator is responsible for payment of any deductible. No such policies shall be subject to cancellation or reduction in coverage limits or other modification except after thirty (30) days prior written notice to the City. The Operator shall identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal the Operator changes to "occurrence," the Operator shall carry a twelve (12) month tail. The Operator shall not do or permit to be done anything that shall invalidate the policies.~~

~~() No "Pollution Exclusion."~~

~~h. The insurance required by this Section shall cover any and all damages, claims or suits arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants, and shall not exclude from coverage any liability or expense arising out of or related to any form of pollution, whether intentional or otherwise.~~

~~h. In the event the Operator is unable to procure a policy of comprehensive general liability insurance in compliance with the provisions of this subsection, the Operator shall secure and maintain either a rider or a separate policy insuring against liability for pollution related damages, claims or suits, as described in this subsection, with at least One Million dollars (\$1,000,000) each occurrence, subject to approval by the City, which approval shall not be unreasonably withheld.~~

~~() Mutual Benefit. The insurance policies described in herein shall be for the mutual and joint benefit and protection of the Operator and the City. All insurance policies required herein shall provide that the City, although named as an additional insured, shall nevertheless be entitled to recovery under said policies for any loss occasioned to the City or its officers, employees or agents by reason of negligence of the Operator or its officers, employees, agents, subcontractors or business invitees. Such policies shall be written as primary policies not contributing to and not in excess of coverage the City may carry.~~

~~() Evidence of Coverage. Prior to issuance of an Oil and Gas Permit, the Operator shall furnish to the City certificates of insurance policies evidencing insurance coverage required herein. The Operator shall, upon request by the City and not less than thirty (30) days prior to the expiration of any such insurance coverage, provide the City with a certificate of insurance evidencing either new or continuing coverage in accordance with the requirements of this Section.~~

~~(h)(c) Performance Security. Performance Security.~~ To ensure compliance with mitigation and other requirements set forth in this ~~Section~~section, the ~~BMP Document~~, and ~~specifically permit conditions of approval for the Operations~~, the Operator may be required to provide reasonable performance security to the City through a minor improvement security agreement as outlined in this Code in an amount to be determined by the City and in a form acceptable to the City. ~~Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public and any damage to public infrastructure~~

~~(m)(d) Cost Reimbursement Agreement.~~ The Operator shall reimburse the City ~~and/or the Fire District, the applicable fire district, and any other emergency service provider~~ for any emergency response costs incurred by ~~the City and/or the Fire District~~any of them in connection with the Operations.

~~(6)(16)~~ Inspection by the City.

~~() Right to Enter. In addition to the rights identified in the City's Municipal Code, the City shall have the authority to discontinue the application process, revoke approved permits or to obtain an order from a court of competent jurisdiction to obtain entry, in the event entry is denied.~~

~~() Operator Contact. 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. All Operations may be inspected by the City at any time to ensure compliance with the requirements of the Oil and Gas Permit, provided that at least one hour prior notice is given to the contact person at the telephone number supplied by the Operator. Calling the number (or leaving a message on an available answering machine or voice mail service at the number) at least one hour in advance of the proposed inspection shall constitute sufficient prior notice if the contact person does not answer. By accepting an Oil and Gas Permit, the Operator grants consent to such inspections.~~

~~The cost of any such inspection shall be borne by the Operator, provided such inspections and fees are not in conflict with COGCC inspections and rules. The City's inspectors will be properly trained or certified to conduct inspections in a safe manner or be escorted by such a person.~~

~~(6) **Variances and Minor Modifications.** No variances or minor modifications are permitted concerning Oil and Gas Permits. All requests for non-compliance shall be addressed via the processes identified by the Code.~~

~~(a) The City has the right to inspect all Well Sites, Operations, and Oil and Gas Facilities. 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 21-3235 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.~~

~~(17) **Modifications to Oil and Gas Bulk Standards.** Applicants who wish to seek relief from any of the bulk standards defined within 21-5266(6a) or 21-6280(1) shall be reviewed by the planning commission and approved by the city council. A reduction may be approved if all of the following criteria are met:~~

~~a. There is no deviation from the approval criteria of 21-3235(8);~~

~~b. The proposed reduction is the minimum needed for the reasonable development of mineral resources at the proposed location;~~

~~c. Through alternative site analysis, the applicant has demonstrated that no other reasonable locations exist to access the targeted minerals;~~

~~d. The applicant has incorporated any necessary additional Best Management Practices beyond current requirements to mitigate additional impacts that may arise from the reduced setback distance; and~~

e. Bulk standards are not modified by greater than 20% of the minimum value.

Modifications to other Oil and Gas standards contained within Articles III, V, and VI of the Land Development Code and the City's adopted Best Management Practices shall not be permitted.

(7)(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 ~~Section~~code, the Oil and Gas Permit, the BMP Document or ~~the any applicable Regional Operator Agreement or~~ 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. ~~—In the event~~ 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 ~~the any applicable Regional Operator Agreement or~~ 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 to cease. ~~— upon written notification to the Operator.~~ In such event, the Operator shall cease all Operations shall be safely ceased as soon as possible to do so. This suspension shall be in a safe manner upon written notification by the Director ~~of addition to any other enforcement mechanism available to the violation or identification of the material change(s). The City will not order cessation of any activities subject to the sole jurisdiction of the Colorado Oil & Gas Conservation Commission.~~

(c) Revocation of Oil and Gas Permit. ~~Following notice and hearing, In the Planning Commission or City Council may revoke manner consistent with this code, revocation of~~ an Oil and Gas Permit ~~if the Operator has violated~~ 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 ~~the any applicable Regional Operator Agreement or~~ 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) Not less than thirty (30) COGCC Enforcement Orders.

- ~~(xxxvii) — Within five (5) business days prior to the revocation hearing, the City shall provide written notice to the Operator identifying the violation and/or the material changes and the time and date of the hearing.~~
- ~~(xxxvii) — Public notice receipt of the revocation hearings shall follow the standard notice procedures of the Planning Commission and City Council.~~
- ~~(xxxvii) — If, following the hearings, the Planning Commission or City Council determines by a preponderance of evidence that one or more violations exist, the City may:~~
- ~~h. — Revoke the Oil and Gas Permit;~~
- ~~h. — Suspend the Oil and Gas Permit pending correction of the violation(s) by a date certain; or~~
- ~~h. — Defer action on the Oil and Gas Permit pending correction of the violation(s) by a date certain.~~
- ~~(j) — Assignment of Permits. An Oil and Gas Permit may be assigned to another Operator only with the written consent of the City and upon a showing that the new Operator can and will comply with all requirements, terms and conditions of this Code, the Oil and Gas Permit and the Extraction Agreement and all applicable state, local and federal laws, rules and regulations. Such new Operator shall execute a written consent to assignment of the Extraction Agreement on a form approved by the City.~~
- ~~(k) — Judicial Review. Any action seeking judicial review of a final decision of the City shall be initiated COGCC Enforcement Order for a violation occurring in the District Court for Adams County, Colorado, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.~~
- ~~(l)(i) — Governing Law and Venue, and Recovery of Costs. This Code, the Oil and Gas Permit and the Extraction Agreement shall be governed by the laws of the State of Colorado. Venue for state court actions shall be in Adams County, Colorado, and for federal actions shall be in United States District Court for the District of Colorado, in Denver, Colorado. In the event the City brings any action against the Operator to enforce any provision of this Code, the Oil and Gas Permit or the Extraction Agreement and the City prevails in such action, the Operator shall pay all reasonable court costs and attorney fees incurred by the City, the Operator shall provide the Enforcement Order to the City.~~

~~(8)~~**(19) No Permit Approval Pending Enforcement Action.**– No Oil and Gas Permit ~~or~~ application ~~therefore~~or any proposed amendment to an Oil and Gas Permit application, shall be processed or approved ~~on behalf of an Operator or property owner for a~~with regard to a Well Site that is subject to an ongoing enforcement action– by any federal, state, or local agency having jurisdiction over the property.

(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 will provide the City with resulting data if collected within 1,000 feet of the surface and requested by the City due to potential impacts on City projects or municipal water supplies.

(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. 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. Absent the Operator's negligence, the Operator shall not be liable for such costs caused by a third party lacking privity with the Operator.

(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.

~~(9)~~

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.

EXHIBIT H TO ORDINANCE 2266 (*REDLINE FOR REFERENCE ONLY*)

(Underlined text indicates new material; strikethrough text indicates deletions; italics indicate moved text.)

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

~~(19)~~(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.

~~(19)~~~~(20)~~ **Applicant** shall mean any person who has filed an application pursuant to the provisions of this land development code.

~~(20)~~~~(21)~~ **Approved Plant List and Landscaping Specifications Document** shall mean that document containing certain information and requirements pertaining to landscaping in the city.

~~(21)~~~~(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.

~~(22)~~~~(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.

~~(23)~~~~(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.

~~(24)~~~~(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.

~~(25)~~~~(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.

~~(26)~~~~(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.

~~(27)~~~~(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.

~~(28)~~~~(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.

~~(29)~~~~(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.

~~(30)~~~~(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.

~~(31)~~~~(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.

~~(32)~~~~(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.

~~(33)~~~~(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.

~~(34)~~~~(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.

~~(35)~~~~(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.

~~(36)~~(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.

~~(37)~~(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.

~~(38)~~(39) **Banner** shall mean a sign made of fabric or other non-rigid material with no enclosing framework.

~~(39)~~(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.

~~(40)~~(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).

~~(41)~~(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.

~~(42)~~(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.

~~(43)~~(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.

~~(2)~~(45) **Best Management Practices (BMPs)** shall mean physical, structural ~~and/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 practices that 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.

~~(44)~~~~(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.

~~(45)~~~~(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.

~~(46)~~~~(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.

~~(47)~~~~(49)~~ **Boundary Line** shall mean every separation, natural or artificial, which marks the confines or line of division of two contiguous parcels of land.

~~(48)~~~~(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."

~~(49)~~~~(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.

~~(50)~~~~(52)~~ **Buffering** shall mean methods such as extra deep lots, increased setbacks, landscaping, fencing, or berming to separate properties or uses that may have potential adverse impacts upon one another.

~~(51)~~~~(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.

~~(52)~~~~(54)~~ **Building Elevation** shall mean a projection of a building plane, including the roof, wall, and all architectural appendages.

~~(53)~~~~(55)~~ **Building Height** see section 21-11140.

~~(54)~~~~(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.

~~(55)~~~~(57)~~ **Building Permit** shall mean a written permit issued by the city that allows the permit holder to undertake construction of a project.

~~(56)~~~~(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.

~~(57)~~~~(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.

~~(58)~~~~(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.

~~(59)~~~~(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.

~~(60)~~~~(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.

~~(61)~~~~(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.

~~(62)~~~~(64)~~ **Car Wash** means an establishment engaged in cleaning or detailing motor vehicles, whether self-service or automated.

~~(63)~~~~(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

~~(64)~~~~(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.

~~(65)~~~~(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.

~~(66)~~~~(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.

~~(67)~~~~(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.

~~(68)~~~~(70)~~ **Chain Link Fence** shall mean a fence composed of wire mesh, typically forming woven squares approximately two inches in width.

~~(69)~~~~(71)~~ **Charter** shall mean the city's home rule charter.

~~(70)~~~~(72)~~ **Child** shall mean a person less than 18 years of age.

~~(71)~~~~(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.

~~(72)~~~~(74)~~ **Child Care Facility** shall mean child care centers and day care homes, as defined herein.

~~(73)~~~~(75)~~ **Church** (See Religious Institution)

~~(74)~~~~(76)~~ **Clean Water Act** shall mean the Federal Water Pollution Control Act (33 U.S.C. § 1251, *et seq.*) and any subsequent amendments thereto.

~~(75)~~~~(77)~~ **Clearing** shall mean any activity that removes vegetative surface cover.

~~(76)~~~~(78)~~ **Clock Tower** shall mean a free-standing structure displaying the time on one or more sides of the structure.

~~(77)~~~~(79)~~ **COGCC** shall mean the Colorado Oil and Gas Conservation Commission.

~~(78)~~~~(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.

~~(79)~~~~(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.

~~(80)~~~~(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.

~~(81)~~~~(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.

~~(82)~~~~(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.

~~(83)~~~~(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.

~~(84)~~~~(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.

~~(85)~~~~(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.

~~(86)~~~~(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.

~~(87)~~~~(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.

~~(88)~~~~(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.

~~(89)~~~~(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.

~~(90)~~~~(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.

~~(91)~~~~(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.

~~(92)~~~~(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.

~~(93)~~~~(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.

~~(94)~~~~(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.

~~(95)~~~~(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.

~~(96)~~~~(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.

~~(97)~~~~(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.

~~(98)~~~~(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.

~~(99)~~~~(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.

~~(100)~~~~(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.

~~(101)~~~~(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.

~~(102)~~**(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.

~~(103)~~**(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.

~~(104)~~**(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.

~~(105)~~**(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.

~~(106)~~**(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.

~~(107)~~**(109) Crematory** shall mean a service establishment containing properly installed, certified apparatus intended for, or used for, the act of cremation.

~~(108)~~**(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.

~~(109)~~**(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.

~~(110)~~**(112) C.R.S.** shall mean the Colorado Revised Statutes, as may be amended from time to time.

~~(111)~~(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)~~ **Cumulative Impacts** shall mean the effects of an action that are added to or interact with other effects in a particular place and within a particular time. Cumulative impacts takes into account all disturbances since cumulative impacts result in the compounding of the effects of all actions over time. The cumulative impacts of an action can be viewed as the total effects on a resource, ecosystem, or human community of that action and all other activities affecting that resource.

~~(3)~~(115) **Curb Cut** shall mean a street curb depression intended to provide vehicular ingress and egress to a property.

~~(4)~~(116) **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.

~~(5)~~(117) **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.

~~(6)~~(118) **Dead-End Street** shall mean a street having no exit or turn-around within a right of way.

~~(7)~~(119) **Decision-Making Body** shall refer generally to the body or person with final approval authority for the application or permit in question.

~~(8)~~(120) **Department** shall mean the department of the city charged with the responsibility of interpreting and applying this land development code.

~~(9)~~(121) **Designated Agent** shall mean the designated representative of any oil and gas well operator.

~~(10) **Designated Outside Activity Areas** shall mean a well defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 40 days in any 12 month period or by at least 500 or more people on at least 3 days in any 12 month period.~~

~~(11)~~(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.

~~(12)~~(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.

~~(13)~~**(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.

~~(14)~~**(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.

~~(15)~~**(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.

~~(16)~~**(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.

~~(17)~~**(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.

~~(18)~~**(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.

~~(19)~~**(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.

~~(20)~~(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.

~~(21)~~(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** shall mean the section(s) of land encompassing a particular area for the subsurface extraction of oil and gas resources that may be targeted by one or more oil and gas wells, as approved by COGCC order or statute.

~~(22)~~(134) **Drainage Way** shall mean any channel that conveys surface water runoff throughout the site.

~~(23)~~(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.

~~(24)~~(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.

~~(25)~~(137) **Driveway, Shared** shall mean a single driveway serving two or more adjoining lots or uses.

~~(26)~~(138) **DRT** see Development Review Team.

~~(27)~~(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.

~~(28)~~(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.

~~(29)~~(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.

~~(30)~~~~(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.

~~(31)~~~~(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.

~~(32)~~~~(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.

~~(33)~~~~(145)~~ **Eaves** shall mean the projecting lower edges of a roof overhanging the wall of a building.

~~(34)~~~~(146)~~ **ECSS** shall mean the Engineering Construction Standards and Specifications of the city.

~~(35)~~~~(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.

~~(36)~~~~(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.

~~(37)~~~~(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)~~ **Eligibility Letter** as it relates to Oil and Gas, shall mean a determination made by the Director as to whether a planned Oil and Gas Location meets the review criteria defined in 21-5266(5)(b)(iii), and is thus eligible to submit an Oil and Gas Permit for review by the City.

~~(38)~~~~(151)~~ **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.

~~(39)~~~~(152)~~ **Erosion Control** shall mean any measure that prevents soil from wearing away.

~~(40)~~~~(153)~~ **Establishment** shall mean a place of business, industry, retail, or professional office with its furnishings and staff.

~~(41)~~(154) **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.

~~(42)~~(155) **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.

~~(43)~~(156) **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.

~~(44)~~(157) **Explosives** shall mean:

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

~~(45)~~(158) **Extraction Agreement** shall mean the agreement between the Operator and the City that is required by this Code.

~~(46)~~(159) **Façade** shall mean the exterior walls of a building.

~~(47)~~(160) **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.

~~(48)~~~~(161)~~ **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.

~~(49)~~~~(162)~~ **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.

~~(50)~~~~(163)~~ **Farmers' Market** shall mean the seasonal offering for sale of fresh agricultural products directly to the consumer at an open-air market.

~~(51)~~~~(164)~~ **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.

~~(52)~~~~(165)~~ **FCC** shall mean the Federal Communications Commission.

~~(53)~~~~(166)~~ **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.

~~(54)~~~~(167)~~ **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.

~~(55)~~~~(168)~~ **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.

~~(56)~~~~(169)~~ **Firewood Sales and Storage** shall mean a commercial establishment or area for the purpose of firewood sales, splitting, and storage.

~~(57)~~~~(170)~~ **Flag** shall mean any fabric containing distinctive colors, patterns, or symbols used as a symbol of a government, political subdivision, or other entity.

~~(58)~~~~(171)~~ **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.

~~(59)~~(172) **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.

~~(60)~~(173) **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.

~~(61)~~(174) **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.

~~(62)~~(175) **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.

~~(63)~~(176) **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.

~~(64)~~(177) **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.

~~(65)~~(178) **Floodplain or Flood-Prone Area** shall mean any land area susceptible to being inundated by water from any source (see Flooding).

~~(66)~~(179) **Floodplain Administrator** shall mean the local administrative official who is responsible for administering and implementing the city's Flood Overlay District.

~~(67)~~(180) **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.

~~(68)~~(181) **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.

~~(69)~~(182) **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.

~~(70)~~(183) **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.

~~(71)~~(184) **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.

~~(72)~~(185) **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.

~~(73)~~(186) **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.

~~(74)~~(187) **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.

~~(75)~~(188) **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.

~~(76)~~(189) **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.

~~(77)~~(190) **Footprint** shall mean the total area that is covered by a building's perimeter at ground level.

~~(78)~~(191) **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.

~~(79)~~(192) **Frontage** shall mean the side(s) of a lot adjacent to a street.

~~(80)~~(193) **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.

~~(81)~~(194) **Garage** shall mean a building or the portion of a building designed and intended for the parking or temporary storage of motorized vehicles.

(195) **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.

~~(82)~~(196) **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.

~~(83)~~(197) **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.

~~(84)~~(198) **Grading** shall mean excavation or fill of earth material, or any combination thereof, or any land disturbance.

~~(85)~~(199) **Grading Permit** shall mean a permit issued by the city for grading.

~~(86)~~(200) **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.

~~(87)~~(201) **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.

~~(88)~~(202) **Gross Floor Area** shall mean the total area in square feet of all floors of a building measured from exterior walls.

~~(89)~~(203) **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.

~~(90)~~(204) **Groundwater** shall mean, as it relates to Oil and Gas Operations, subsurface waters in a zone of saturation.

~~(91)~~(205) **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.

~~(92)~~(206) **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.

~~(93)~~(207) **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.

~~(94)~~(208) **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.

~~(95)~~(209) **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.

~~(96)~~(210) **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.

~~(97)~~(211) **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.

~~(98)~~(212) **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.

~~(99)~~(213) **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~~200.3.

~~(100)~~(214) **Highest Adjacent Grade** shall mean the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

~~(101)~~(215) **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.

~~(102)~~(216) **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.

~~(103)~~(217) **Hoop House** shall mean an unheated greenhouse, most commonly constructed with arches of plastic or metal.

~~(104)~~(218) **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.

~~(105)~~(219) **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.

~~(106)~~(220) **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.

~~(107)~~(221) **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.

~~(108)~~(222) **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.

~~(109) Inactive Well shall mean, as it relates to Oil and Gas Operations, any shut-in well from which no production has been sold for a period of 12 consecutive months; any well which has been temporarily abandoned for a period of 6 consecutive months; or, any injection well which has not been utilized for a period of 12 consecutive months.~~

~~(110)~~(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.

~~(111)~~(224) **Industrial Activity** shall mean an activity subject to Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

~~(112)~~(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.

~~(113)~~(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).

~~(114)~~(227) **Injection Well** shall mean any ~~well as defined under 40 C.F.R. §144.5 B, 1992 Edition, (adopted by the U.S. Environmental Protection Agency)~~Class II wells used for the exclusive purpose of injecting fluids or gas from the surface. ~~The definition for enhanced oil recovery or the disposal of E&P Wastes.astes.~~^[OBJ] ~~an injection well does not include gas storage wells.~~

~~(115)~~(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

~~(116)~~(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.

~~(117)~~(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.

~~(118)~~(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.

~~(119)~~(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.

~~(120)~~(233) **Kiosk** shall mean a freestanding structure upon which temporary information and/or posters, notices and announcements are posted.

~~(121)~~(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.

~~(122)~~(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 uses for construction purposes.

~~(123)~~(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.

~~(124)~~~~(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.

~~(125)~~~~(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.

~~(126)~~~~(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.

~~(127)~~~~(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.

~~(128)~~~~(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.

~~(129)~~~~(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.

~~(130)~~~~(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).

~~(131)~~~~(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.

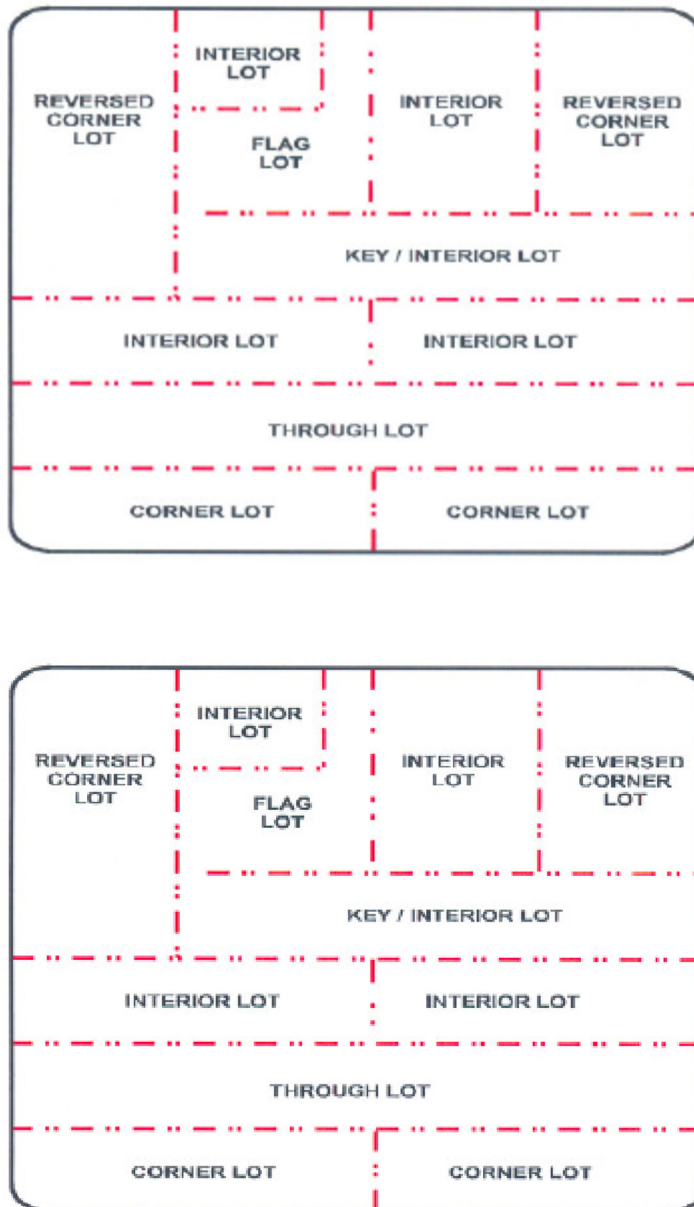
~~(132)~~~~(245)~~ **Local Street** shall mean a street which has the primary function of providing access to abutting property and which does not normally carry through traffic.

~~(133)~~~~(246)~~ **Lodging Establishment** shall mean an establishment, building, or premises with more than 20 sleeping rooms where lodging is offered for compensation.

~~(134)~~(247) **Lodging, Extended Stay** shall mean a lodging establishment offering suites with living, kitchen, and sleeping areas.

~~(135)~~(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



~~(136)~~(249) **Lot Area** shall mean the total horizontal, square footage area within the lot lines of a lot.

~~(137)~~(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.

~~(138)~~(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.

~~(139)~~(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.

~~(140)~~(253) **Lot Frontage** see sections 21-11110 and 21-11115.

~~(141)~~(254) **Lot, Interior** shall mean a lot which is not a corner lot and has only one street frontage.

~~(142)~~(255) **Lot Line** see Property Line.

~~(143)~~(256) **Lot Line Adjustment** shall mean a change in lot or parcel boundaries that does not create additional lots or parcels.

~~(144)~~(257) **Lot Pin** shall mean a solid steel pin established to provide for the accurate location of platted property lines.

~~(145)~~(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.

~~(146)~~(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.

~~(147)~~(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.

~~(148)~~(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.

~~(149)~~~~(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.

~~(150)~~~~(263)~~ **Mansard Roof** shall mean a roof with at least two slopes on any side with the lower slope steeper than the upper one(s). The deck line is the top edge of the lower slope.

~~(151)~~~~(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. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales.

~~(152)~~~~(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.

~~(153)~~~~(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.

~~(154)~~~~(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.

~~(155)~~~~(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.

~~(156)~~~~(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.

~~(157)~~~~(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.

~~(158)~~(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.

~~(159)~~(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.

~~(160)~~(273) **Median** shall mean that portion of a divided street or highway separating the traveled ways for traffic in opposite directions.

~~(161)~~(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.

~~(162)~~(275) **Medical Marijuana Center** shall have the meaning ascribed to it in state law.

~~(163)~~(276) **Medical Marijuana Infused Product Manufacturer** shall have the meaning ascribed to it by state law.

~~(164)~~(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.

~~(165)~~(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.

~~(166)~~(279) **Micro-winery** shall mean a business that manufactures 5,000 to 10,000 cases of vinous liquors per year.

~~(167)~~(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.

~~(168)~~(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.

~~(169)~~(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.

~~(170)~~(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.

~~(171)~~(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.

~~(172)~~(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.

~~(173)~~(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.

~~(174)~~(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.

~~(175)~~(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.

~~(176)~~(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.

~~(177)~~(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.

~~(178)~~(291) **MS4** shall mean the municipal separate storm sewer system.

~~(179)~~(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.

~~(180)~~(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.

~~(181)~~(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.

~~(182)~~(295) **MUTCD** shall mean the Manual of Uniform Traffic Control Devices.

~~(183)~~(296) **NAICS** shall mean the North American Industry Classification System as published by the U.S. Census Bureau.

~~(184)~~(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.

~~(185)~~(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.

~~(186)~~(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.

~~(187)~~(300) **Non-Stormwater Discharge** shall mean any discharge to the storm drain system that is not composed entirely of stormwater.

~~(188)~~(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.

~~(189)~~(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).

~~(190)~~(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.

~~(191)~~(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.

~~(192)~~(305) **Off-Street Parking** shall mean an area, other than a street or alley, designed or used primarily for the temporary parking of vehicles.

~~(193)~~(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.

~~(194)~~(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.

~~(195) OGCC shall mean the Oil and Gas Conservation Commission.~~

~~(196)~~(308) **Oil and Gas** shall mean oil or gas, or both oil and gas.

~~(197)~~(309) **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, ~~Oil and Gas well facilities, Oil and Gas~~ well sites, production facilities, production sites, treatment facilities, access roads, well pads, tank batteries, pits, and flowlines, ~~and gathering lines~~.

(310) Oil and Gas Location shall mean a definable area where an operator has disturbed or intends to disturb the land surface in order to locate and Oil and Gas Facility.

~~(198)~~(311) **Oil and Gas Permit** shall mean any permit issued by the City that allows an Operator to conduct Oil and Gas ~~well~~Well operations

~~(199)~~(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.

~~(200) Oil and Gas Well Facility shall mean shall mean equipment or improvements used or installed at an Oil and Gas Well location for the exploration, production, withdrawal, gathering, treatment, or processing of oil or natural gas.~~

~~(204)~~(313) ~~Oil and Gas Well Operations or Operation~~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.

~~(202) Oil and Gas Well Site~~ shall mean ~~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.”~~

~~(203)~~(314) **One-Hundred-Year Flood** See Base Flood.

~~(204) Operating Plan~~ shall mean, ~~as it relates to Oil and Gas Operations, a general description of a facility identifying purpose, use, typical staffing pattern, equipment description and location, access routes, seasonal or periodic considerations, routine hours of operating, source of services and infrastructure, and any other information related to regular functioning of that facility.~~

~~(205)~~(315) **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.

~~(206)~~(316) **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.

~~(207)~~(317) **Optional Premises Cultivation Operation** shall have the meaning ascribed to it by state law.

~~(208)~~(318) **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.

~~(209)~~(319) **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.

~~(210)~~(320) **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.

~~(211)~~(321) **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.

~~(212)~~(322) **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.

~~(213)~~(323) **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.

~~(214)~~(324) **Parcel** shall mean a plot of land of any size that may or may not be subdivided or improved.

~~(215)~~(325) **Park, Public** shall mean a public-owned parcel of land, with or without improvements, set apart for the recreation of the public.

~~(216)~~(326) **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.

~~(217)~~(327) **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.

~~(218)~~(328) **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.

~~(219)~~(329) **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.

~~(220)~~(330) **Parking, Shared** shall mean joint use of a parking lot or area for more than one principal use.

~~(221)~~(331) **Pawnshop** shall mean a retail sales establishment where a pawnbroker regularly engages in or solicits business.

~~(222)~~(332) **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.

~~(223)~~(333) **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.

~~(224)~~(334) **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.

~~(225)~~(335) **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.

~~(226)~~(336) **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.

~~(227)~~(337) **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.

~~(228)~~(338) **Plaza** shall mean an open space that may be improved and landscaped, usually surrounded by streets or buildings.

~~(229)~~~~(339)~~ **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.

~~(230)~~~~(340)~~ **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.

~~(231)~~~~(341)~~ **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.

~~(232)~~~~(342)~~ **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.

~~(233)~~~~(343)~~ **Porch** shall mean a covered or uncovered entrance with vertical supporting members on a foundation, not including walls.

~~(234)~~~~(344)~~ **Premises** shall mean any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

~~(235)~~~~(345)~~ **Primary Caregiver** shall have the same meaning as that ascribed to it in C.R.S. § 25-1.5-106(2)(d.5).

~~(236)~~~~(346)~~ **Primary or Principal Entrance** shall mean the place of ingress and egress used most frequently by the public.

~~(237)~~~~(347)~~ **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.

~~(238)~~~~(348)~~ **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.

~~(239)~~~~(349)~~ **Private Road** shall mean every road or driveway not owned by the city.

~~(240)~~(350) **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.

~~(241)~~(351) **Production** shall mean the making of goods available for human wants.

~~(242)~~(352) **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. Production Site is synonymous with the COGCC's definition of "working pad surface".

~~(243)~~(353) **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.

~~(244)~~(354) **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).

~~(245)~~(355) **Public** shall mean for the benefit of, or devoted to, the people as a whole or the community at large.

~~(246)~~(356) **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.

~~(247)~~(357) **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.

~~(248)~~(358) **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 by 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.

~~(249)~~(359) **Public Notice** shall mean the advertisement in a newspaper, posting of the property, and/or the mailing of written notice.

~~(250)~~(360) **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.

~~(251)~~(361) **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.

~~(362)~~ **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.

~~(252)~~(363) **PUD** - see Planned Unit Development.

~~(253)~~(364) **PUD Concept Schematic** shall mean a generalized land use or site plan for an area proposed to be included within a PUD district.

~~(254)~~(365) **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.

~~(255)~~(366) **PUD Zone Document** shall mean the PUD land use application which establishes entitlements for property including allowable land use and bulk standards.

~~(256)~~(367) **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.

~~(257)~~(368) **Railroad Yard** shall mean an area used for storage by an establishment engaged in rail services.

~~(258)~~(369) **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 to landowner specifications as required by Operator's approved interim and final reclamation plans.

~~(259)~~(370) **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.

~~(260)~~**(371) Recreation or Amusement, Public** shall mean any use or development providing amusement, pleasure, or sport, which is owned or operated by a governmental entity.

~~(261)~~**(372) 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.

~~(262)~~**(373) 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.

~~(263)~~**(374) 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.

~~(264) Remediation shall mean, as it relates to Oil and Gas Operations, the process of reducing the concentration of a contaminant or contaminants in water or soil to the extent necessary to ensure compliance with the concentration levels in COGCC Table 910-1 and other applicable ground water laws, standards and classifications.~~

~~(265)~~**(375) 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.

~~(266)~~**(376) 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.

~~(267)~~**(377)** **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.

~~(268)~~**(378)** **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.

~~(269)~~**(379)** **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.

~~(270)~~**(380)** **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.

~~(271)~~**(381)** **Residential, Single-Family** shall refer to single-family attached and single-family detached dwellings, collectively.

~~(272)~~**(382)** **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.

~~(273)~~**(383)** **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.

~~(274)~~**(384)** **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.

~~(275)~~**(385)** **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).

~~(276)~~**(386)** **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.

~~(277)~~**(387)** **Retail Marijuana Cultivation Facility** shall have the meaning ascribed to it by state law.

~~(278)~~**(388)** **Retail Marijuana Product Manufacturer** shall have the meaning ascribed to it by state law.

~~(279)~~**(389)** **Retail Marijuana Store** shall have the meaning ascribed to it by state law.

~~(280)~~**(390)** **Retail Marijuana Testing Facility** shall have the meaning ascribed to it by state law.

~~(281)~~**(391)** **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.

~~(282)~~**(392)** **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).

~~(283)~~**(393)** **Road Impact Fee Study** shall mean a study prepared for and on behalf of the city to determine road impacts generated by new development.

~~(284)~~**(394)** **Roadside Stand** shall mean a temporary structure used primarily to sell products produced on the property.

~~(285)~~**(395)** **Roadway** shall mean that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, including the shoulder.

~~(286)~~**(396)** **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.

~~(287)~~(397) **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.

~~(288)~~(398) **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.

~~(289)~~(399) **Scrap Tire** means a tire that is no longer used for its original purpose.

~~(290)~~(400) **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.

~~(291)~~(401) **Sediment Control** shall mean BMPs that prevent eroded sediment from leaving the site.

~~(292)~~(402) **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.

~~(293)~~ **Semi-Trailers** - see Trailer

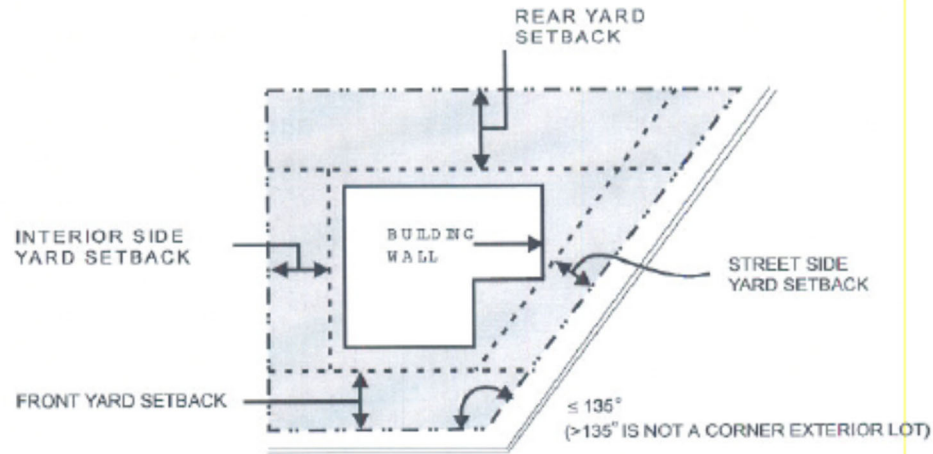
~~(294)~~(403) **Sensitive Area** shall mean, as it relates to Oil and Gas Operations, an area vulnerable to potential significant adverse groundwater impacts, due to factors such as the presence of shallow groundwater or pathways for communication with deeper groundwater; proximity to surface water, including lakes, rivers, perennial or intermittent streams, creeks, irrigation canals, and wetlands.

~~(295)~~(404) **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.

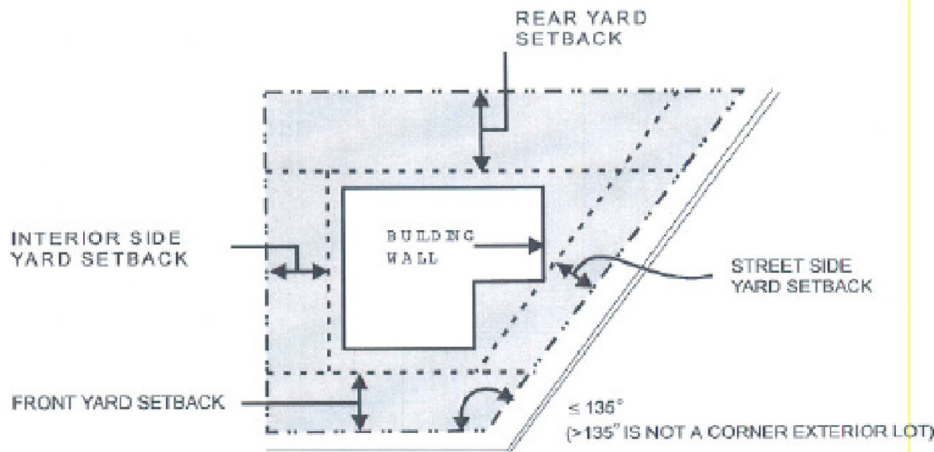
~~(296)~~(405) **Service Station** shall mean any building, land area, or other premises used for the retail dispensing or sales of vehicular fuels; minor towing, servicing, and repair of automobiles and light trucks; and including as an accessory use the sale and installation of lubricants, tires, batteries, 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.

~~(297)~~(406) **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



NOTE: FRONT YARD IS SHORTER OF TWO FRONTAGES UNLESS OTHERWISE DETERMINED BY THE DIRECTOR.



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~~(298)~~(407) **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.

~~(299)~~(408) **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.

~~(300)~~(409) **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.

~~(301)~~(410) **Sidewalk** shall mean that portion of a public right-of-way adjacent to lateral property lines intended for the use of pedestrians.

~~(302) **Sidetracking** shall mean entering the same well head from the surface, but not necessarily following the same well bore, throughout its subsurface extent when deviation from such well bore is necessary to reach the objective depth because of an engineering problem.~~

~~(303)~~(411) **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.

~~(304)~~(412) **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.

~~(305)~~(413) **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.

~~(306)~~(414) **Sign, Awning** shall mean a sign painted or printed on and attached flat against the surface of an awning.

~~(307)~~(415) **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.

~~(308)~~(416) **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.

~~(309)~~(417) **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.

~~(310)~~~~(418)~~ **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.

~~(311)~~~~(419)~~ **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.

~~(312)~~~~(420)~~ **Sign, Ideological** shall mean a sign which does not propose a commercial transaction but, instead, involves only the expression of ideas or beliefs.

~~(313)~~~~(421)~~ **Sign, Illuminated** shall mean a sign designed to give forth any artificial light or reflect such light from an artificial source.

~~(314)~~~~(422)~~ **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.

~~(315)~~~~(423)~~ **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.

~~(316)~~~~(424)~~ **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.

~~(317)~~~~(425)~~ **Sign, Off-Premise** shall mean a sign advertising goods or services not provided on the property upon which the sign is located.

~~(318)~~~~(426)~~ **Sign, Real Estate** shall mean a sign advertising the sale, rental, or lease of the premises on which it is maintained.

~~(319)~~~~(427)~~ **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.

~~(320)~~~~(428)~~ **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.

~~(321)~~~~(429)~~ **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.

~~(322)~~~~(430)~~ **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.

~~(323)~~~~(431)~~ **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.

~~(324)~~~~(432)~~ **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.

~~(325)~~~~(433)~~ **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 handles 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.

~~(326)~~~~(434)~~ **Solid Waste Disposal** shall mean the storage, treatment, utilization, processing, or final disposal of solid wastes.

~~(327)~~~~(435)~~ **Solid Waste Disposal Site** shall mean the location at which the deposit and final treatment of solid wastes occur.

~~(328)~~~~(436)~~ **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.

~~(329)~~~~(437)~~ **Stabilization** shall mean the use of practices that prevent exposed soil from eroding.

~~(330)~~~~(438)~~ **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

~~(331)~~~~(439)~~ **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.

~~(332)~~(440) **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.

~~(333)~~(441) **Stormwater** shall mean any runoff consisting entirely of water from any form of natural precipitation.

~~(334)~~(442) **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.

~~(335)~~(443) **Street** shall mean a dedicated public or non-dedicated private thoroughfare that affords the principal means of access to abutting property.

~~(336)~~(444) **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.

~~(337)~~(445) **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.

~~(338)~~(446) **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.

~~(339)~~(447) **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.

~~(340)~~(448) **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.

~~(341)~~(449) **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.

~~(342)~~(450) **Subsurface Disposal Facility** shall mean a facility or system for disposing of water or other oil field wastes into a subsurface reservoir or reservoirs.

~~(343)~~(451) **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~~**Director**.

~~(452)~~ **Surface Owner** shall mean any person owning all or part of the surface of land upon which oil and gas operations are conducted, as shown by the tax records of the county in which the tract of land is situated, or any person with such rights under a recorded contract to purchase.

~~(453)~~ **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.

~~(344)~~(454) **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.

~~(345)~~(455) **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.

~~(346)~~(456) **Tasting Room** shall mean an area devoted to the sampling, and sales thereof, of wine or beer produced on or off premises.

~~(347)~~(457) **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.

~~(348)~~~~(458)~~ **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.

~~(349)~~~~(459)~~ **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.

~~(350)~~~~(460)~~ **Temporary** shall mean a period of time under one year, unless otherwise specified in this land development code.

~~(351)~~~~(461)~~ **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.

~~(352)~~~~(462)~~ **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.

~~(353)~~~~(463)~~ **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.

~~(354)~~~~(464)~~ **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.

~~(355)~~~~(465)~~ **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.

~~(356)~~~~(466)~~ **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.

~~(357)~~~~(467)~~ **Tractor Trailer** shall mean the vehicle formed by combining a trailer and a truck-tractor.

~~(358)~~(468) **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.

~~(359)~~(469) **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.

~~(360)~~(470) **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.

~~(361)~~(471) **Transfer Facility** shall mean a facility or site at which the exchange or deposit of material is made for ultimate transfer and disposal elsewhere.

~~(362)~~(472) **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.

~~(363)~~(473) **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.

~~(364)~~(474) **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.

~~(365)~~(475) **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.

~~(366)~~(476) **Truck Repair** shall mean the process or operation of repairing trucks, including major work on engines or transmissions.

~~(367)~~(477) **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.

~~(368)~~(478) **Truck, Trailer Sales and Service** shall mean an establishment or area for the purpose of trailer and truck sales, service, and repair.

~~(369)~~(479) **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.

~~(370)~~(480) **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.

~~(371) **Twinning** shall mean the drilling of a well within a radius of 50 feet from an existing well bore when the well cannot be drilled to the objective depth or produced because of an engineering problem, such as a collapsed casing or formation damage.~~

~~(372)~~(481) **Underlying Zone District** shall mean a base zone district that is affected by an overlay district.

~~(373)~~(482) **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.

~~(374)~~(483) **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.

~~(375)~~(484) **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.

~~(376)~~(485) **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.

~~(377)~~(486) **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.

~~(378)~~(487) **Utility Lines** shall mean all electrical, communication, cable television wiring, coaxial, fiber optic, water, sewer, natural gas, or other such physical system connections.

~~(379)~~(488) **Vacation** shall mean the termination of or termination of interest in an easement, right-of-way, or public dedication of land.

~~(380)~~(489) **Variance** shall mean a deviation from specific standards contained in this land development code.

~~(381)~~(490) **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.

~~(382)~~(491) **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.

~~(383)~~(492) **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.

~~(384)~~(493) **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.

~~(385)~~(494) **Vertical Growing Structure** shall mean a permanent structure used to encourage the vertical growing of plants. Traditional examples include arbors and trellis.

~~(386)~~(495) **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.

~~(387)~~(496) **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.

~~(388)~~(497) **Wastewater** shall mean any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

~~(389)~~(498) **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.

~~(390)~~(499) **Water Bodies** shall mean reservoirs, lakes, perennial or seasonally flowing rivers, streams, creeks, springs, irrigation ditches, aquifers, and wetlands.

~~(391)~~(500) **Watercourse** shall mean any body of water, including but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the city.

~~(392)~~(501) **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.

~~(393)~~(502) **Waterway** shall mean a channel that directs surface runoff to a watercourse or to the public storm drain.

~~(394)~~(503) **Weed** shall mean any herbaceous plant which, due to height, smell, appearance, or injurious nature, has a blighting influence.

~~(395)~~(504) **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.

~~(396)~~(505) **Well** shall mean, as it relates to Oil and Gas Operations, an Oil or Gas well for purposes of exploration and production.

~~(397)~~(506) **Well Site** shall mean, as it relates to Oil and Gas Operations, ~~areas directly~~a definable area where an Operator has disturbed ~~during or intends to disturb~~ the ~~drilling~~land surface in order to locate an Oil and ~~subsequent operation of, or affected by, production facilities directly associated with, any oil or gas~~Gas well or injection wellfacility, and includes a **Production Site.** ~~its associated well pad.~~

~~(398)~~(507) **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.

~~(399)~~(508) **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.

~~(509)~~ **Working Pad** shall mean the portions of an Oil and Gas Location that has an improved surface upon which Oil and Gas Operations take place.

~~(400)~~(510) **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.

~~(401)~~(511) **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.

~~(402)~~(512) **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

~~(403)~~(513) **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.

~~(404)~~(514) **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.

~~(405)~~(515) **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.

~~(406)~~(516) **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.

~~(407)~~(517) **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.

~~(408)(518)~~ **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