

EXHIBIT A TO ORDINANCE 2266

Sec. 3-2304. - Penalties.

- (a) The following minimum penalties are hereby established for violations prosecuted under this article; provided, however, that the minimum penalties for violations of any provision identified as a civil infraction in chapter 4 of this Code shall be fifty (50) percent of the amounts set forth in this section:
- (1) A minimum penalty of one hundred dollars (\$100.00) shall be imposed against the responsible party for the first violation of a particular code provision within any consecutive twelve-month period.
 - (2) For each successive violation of the same code provision within any twelve-month period, minimum penalties shall be imposed against the responsible party as follows:
 - a. Second violation: three hundred dollars (\$300.00).
 - b. Third violation: five hundred dollars (\$500.00).
 - c. Fourth or greater violation: nine hundred ninety-nine dollars (\$999.00).
 - (3) Where multiple violations of a single Code provision are found, the applicable minimum penalty shall be imposed for each count.
- (b) Notwithstanding the foregoing, the following minimum penalties are hereby established for violations prosecuted under this article relating to oil and gas operations governed by sections 21-3235 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.
- (d) All penalties imposed and fees assessed shall be payable to the city.
- (e) The failure of a responsible party to pay the penalties imposed within the time specified in any notice of assessment issued in accordance with this article, or in the enforcement order if a protest hearing was held, may result in the assessment of a late fee in an amount set by city council resolution, and the city manager may refer the matter for collection by whatever means are available to the city.
- (f) Any action or other process provided by law may be maintained by the city to recover or collect any amounts, including late fees, interest and administrative costs, owing under this article.

(Ord. No. 1848, § 1, 1-10-2011)

1 EXHIBIT B TO ORDINANCE 2266

2 **Sec. 21-3110. Neighborhood Meetings**

- 3 (1) **Purpose.** Neighborhood meetings are intended to inform neighboring
4 property owners of the details of a proposed development, how the
5 developer intends to meet the standards contained in this Code, and to
6 receive feedback on the proposal early in the review process.
- 7 (2) **Applicability.** The City may require a neighborhood meeting when it
8 appears that an application may have significant neighborhood impacts,
9 including without limitation, impacts related to: traffic; provision of public
10 services such as safety, schools, or parks; compatibility of building design
11 or scale; or operational compatibility such as hours of operation, noise, dust,
12 or glare. A minimum of one neighborhood meeting shall be required for all
13 oil and gas permit applications.
- 14 (3) **Number of Meetings.** When required, there shall be at least one
15 neighborhood meeting held. Such meeting shall be held prior to submittal
16 of a formal application; prior to any administrative action on the application;
17 or a minimum of 21 days prior to the first public hearing on the
18 application. The Director may require additional neighborhood meetings
19 due to the proposed development's mix of uses, density, complexity,
20 potential for impacts, or the need of off-site public improvements created by
21 the development.
- 22 (4) **Attendance Required.** If a neighborhood meeting is required, the
23 applicant or applicant's representative shall attend and conduct the
24 meeting.
- 25
26 (5) **Scheduling and Location.** The applicant shall be responsible for
27 scheduling the neighborhood meeting at a time when a department staff
28 member can attend, shall coordinate the neighborhood meeting, and shall
29 retain an independent facilitator if needed. All neighborhood meetings shall
30 be convened at a place in the vicinity of the proposed development.

EXHIBIT C TO ORDINANCE 2266

DIVISION 2: REVIEW

Sec. 21-3200. Required Review

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

Table III-2. Development Review Table

APPLICATION TYPES	REQUIRED REVIEWS					REFERENCE	LAPSE PERIOD
	Staff	DRT	PC	CC	BOA		
Administrative Applications							
Building and Sign Permits	R	R ¹			H ³	§ 21-3210	6 months
Concept Plans	R	R				§ 21-3211	n/a
Development Plans	R	R	H ¹	H ¹		§ 21-3212	2 years
Floodplain Development Permits	R	R ²			H ¹	§ 21-3213	2 years
Grading Permits	R				H ¹	§21-3214	30 days
Minor Modifications	R	R ¹			H ¹	§ 21-3215	1 year
Temporary Use Permits	R	R ¹			H ¹	§ 21-3217	§ 21-3217
Applications Requiring BOA Approval							
Height Exceptions	R	R			H	§ 21-3220	3 years
Uses-by-Permit	R	R			H	§ 21-3221	2 years
Variances	R	R			H	§ 21-3222	1 year
Applications Requiring Approval by City Council							
Annexations	R	R	H ¹	H		Division III-	n/a
Comprehensive Plan Amendments Minor	R	R	H ¹	H		§ 21-2110	n/a
Comprehensive Plan Amendments Non Minor	R	R	H	H		§ 21-2110	n/a
Conditional Use Permits	R	R	H	H		§ 21-3230	2 years
Model and Elevation Review	R	R ¹	R ¹	R ¹		§ 21-3231	90 days
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
Zone Documents/Amendments	R	R	H	H		§ 21-3251	n/a
Development Permits	R	R	H ¹	H ¹		§ 21-3252	2 years

APPLICATION TYPES	REQUIRED REVIEWS					REFERENCE	LAPSE PERIOD
	Staff	DRT	PC	CC	BOA		
Administrative Applications							
<u>Subdivisions</u>							
Consolidation Plats	R	R	H ²	H ²		§ 21-3243	60 days
Lot Line and Terminology Adjustments	R	R ¹	H ¹	H ¹		§ 21-3244	60 days
Plat Corrections and Revisions	R	R ¹	H ¹	H ¹		§ 21-3242	60 days
Sketch Plats	R	R				§ 21-3240	n/a
Final Plats (administrative)	R	R	H ²	H ²		§ 21-3241	60 days
Final Plats (public hearing required)	R	R	H	H		§ 21-3241	60 days

1

Key	
<i>PC</i>	<i>Planning Commission</i>
<i>CC</i>	<i>City Council</i>
<i>BOA</i>	<i>Board of Adjustment</i>
<i>DRT</i>	<i>Development Review Team</i>
<i>H</i>	<i>Public Hearing</i>
<i>H¹</i>	<i>Hearing upon appeal from staff decision or from director or city council request</i>
<i>H²</i>	<i>Hearing upon appeal from staff decision or by request of director, city council, or public</i>
<i>H³</i>	<i>Hearing on appeal of zoning related matters. Appeals related to building matters are heard by the board of building appeals.</i>
<i>R</i>	<i>Review</i>
<i>R¹</i>	<i>Review requested by director</i>
<i>R²</i>	<i>Review requested by floodplain administrator</i>

2 Section amended by Ord. 1891, August 2012

3 Section amended by Ord. 2183, November 2018

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:

- a. Public Water Supply Wells; and
- b. 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;

- a. Is currently zoned I-2, I-3, or PUD with a use category of "general industrial;" or identifies Oil and Gas resource

1 extraction (i.e. subsurface extraction)
2 as an allowed use; or

- 3 b. Has a future land use designation of
4 Industrial / Distribution, General
5 Industrial, or DIA Technology.

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

- 10 ii. Alternative Site Location Analysis. If the site is not deemed
11 eligible pursuant to the limited exception, the applicant shall
12 prepare and submit an alternative site location analysis
13 including, at a minimum, the following information:

14 1. All drilling and spacing units proposed by the
15 applicant within the City and within 1 mile of the City's
16 municipal boundaries;

17 2. The location of all features listed in section 21-
18 3235(5)(b)(i) within 1 mile of all drilling and spacing
19 units proposed by the applicant;

20 3. A minimum of three potential sites that can
21 reasonably access the mineral resources within the
22 proposed drilling and spacing unit(s), including the
23 following information for each site:

24 a. General narrative description of each
25 site;

26 b. The applicant's basis for proposing
27 each site;

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

30 d. Any factors listed in section 21-
31 3235(5)(b)(i) that the particular site
32 does not meet;

33 e. Proposed truck traffic routes and
34 access roads for each site;

- 1 f. Any executed surface agreements
- 2 between the operator and any
- 3 landowners within 1 mile of all drilling
- 4 and spacing units proposed by the
- 5 applicant; and
- 6 g. Any information pertinent to the
- 7 applicable review criteria that will
- 8 assist the City in evaluating the sites.
- 9 4. In the event significant site constraints limit the
- 10 reasonable submission of at least three sites, the
- 11 applicant may propose in writing what specific
- 12 circumstances prohibit other sites to be considered.
- 13 The Director may waive the requirement of up to two
- 14 (2) additional sites, based on the applicant's
- 15 submission.
- 16 iii. Review Criteria. The Director may determine that a site
- 17 identified in the alternative site location analysis is eligible to
- 18 submit an application, based on the following:
- 19 1. A proposed site's conformance with the City's
- 20 adopted Comprehensive Plan, and any other
- 21 applicable adopted plans;
- 22 2. The absence of any significant impacts the proposed
- 23 site location may have on adjacent properties;
- 24 3. Adequate surface acreage and suitable topography
- 25 for safe and efficient operations;
- 26 4. The ability to access targeted minerals with
- 27 technology available at the time of development;
- 28 5. The ability to reasonably implement the protections
- 29 contained in the BMP Document from the proposed
- 30 location;
- 31 6. The ability to consolidate facilities with other planned
- 32 drilling and spacing units proposed within the City's
- 33 municipal boundaries;
- 34 7. The ability to reconfigure proposed drilling and
- 35 spacing unit applications to provide more suitable
- 36 surface use locations;

1 8. The existence of a surface use agreement between
2 any landowner and a potential operator shall not be a
3 factor of consideration in the city's review of an
4 alternative location analysis; and

5 9. Any other relevant considerations impacting public
6 health, welfare, safety, and the environment.

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

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

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

32 e. Materials submitted for review as part of the Initial Assessment
33 Process and site eligibility determination shall not constitute an
34 application for development for purposes of C.R.S. §24-68-101, et.
35 seq. Any opinions expressed during the Initial Assessment Process
36 and site eligibility determination are informational only and do not
37 represent a commitment on behalf of the city regarding the
38 acceptability or approval of the development proposal, except the
39 eligibility of a site for application.

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

7. Review.

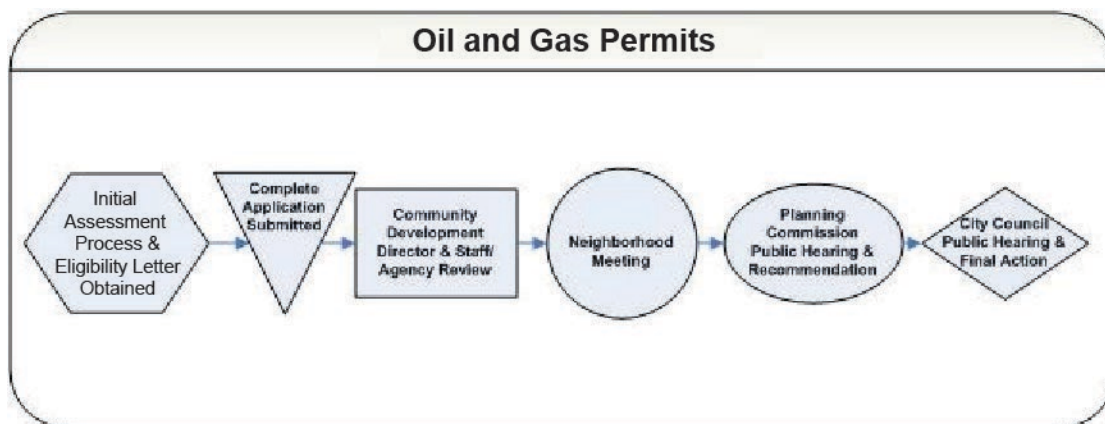
a. The applicant shall obtain an eligibility letter, through the initial assessment process described in 21-3235(5).

b. The Director and DRT review applications for Oil and Gas Permits. The Director 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.

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 the application, based on the approval criteria below.

Figure III-6. Oil and Gas Permits



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

a. The Operator has submitted the appropriate and complete application form and submitted the required fees (except those payable upon the issuance of a permit) to the City;

- b. The proposed location has been deemed eligible pursuant to section 21-3235(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;
- h. The Operator has entered into a site-specific Extraction Agreement, approved by the Director, if required by the City to establish site-specific protections and public improvements not addressed in the BMP Document, this code, or state law or regulation but necessitated by the proposed operation to address matters of public health, welfare, safety, and the environment;
- i. The proposed facility is consistent with any applicable zoning ordinance, subdivision plat, and other plans or land use approvals applicable to the site;

1 j. The proposed facility complies with all regulations and standards of
2 the BMP Document adopted by the City Council, as such may be
3 amended;

4 k. The proposed operation will meet the requirements for Subsurface
5 Extraction as set forth in Section 21-5266 and will not violate any
6 other applicable City, state, or federal standards or laws.

7
8 **9. General Terms of Approval.** The following General Terms and Conditions
9 shall apply to any Oil and Gas Permit.

10 a. The granting of an Oil and Gas Permit shall not relieve the Operator
11 from complying with all applicable regulatory requirements of the
12 City, the state of Colorado, or the United States.

13 b. The Oil and Gas Permit and existing use site plan required by this
14 Code is in addition to any permit that may be required by any other
15 provision of this Code, or by any other governmental agency.

16 c. The Operator shall obtain and maintain a general business license
17 from the City prior to commencing operations and conform to
18 applicable provisions of the Commerce City Revised Municipal Code
19 related to licensing.

20 d. The Operator shall obtain building permits prior to the construction
21 of any above-ground structures to the extent required by the City
22 building and fire codes.

23 e. By accepting an Oil and Gas Permit, the Operator expressly
24 stipulates and agrees to be bound by and comply with the provisions
25 of this Code.

26 **10. Permit Period; Lapse; Forfeiture.**

27 a. The term of the Oil and Gas Permit shall be for three (3) years except
28 as otherwise stated herein. Upon issuance of final approval from the
29 State permitting the commencement of Operations on the Site that is
30 the subject of the City's permit, the term of the Oil and Gas Permit
31 shall automatically become coterminous with the COGCC issued
32 permit approving an oil and gas location assessment (Form 2A)
33 unless the Oil and Gas Permit otherwise expired, lapsed, revoked,
34 forfeited, abandoned, or otherwise terminated.

1 b. The Oil and Gas Permit shall expire upon abandonment and
2 reclamation of the permitted Operation, unless otherwise expired,
3 lapsed, revoked, forfeited, abandoned, or otherwise terminated.

4 c. Time for Drilling and Forfeiture.

5 1. Upon issuance of an Oil and Gas Permit, and notwithstanding
6 any other provision in this Code, the total number of wells
7 approved in the Oil & Gas Permit must be drilled and
8 completed within three (3) years of permit approval. Failure to
9 do so shall constitute the forfeiture of the authorization and
10 right to drill any undrilled wells. Authority to drill forfeited wells
11 can only be obtained upon the issuance of a new Oil & Gas
12 Permit.

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

28 d. If construction of a structure is required, an Oil and Gas Permit shall
29 lapse unless a City building permit has been issued and construction
30 diligently pursued within two (2) years of approval or at such
31 alternative time specified in the approval. In the event no new
32 structure is required for the operation, the Oil and Gas Permit shall
33 lapse if the Operation is not commenced within 180 days of the
34 issuance of either a state permit or city permit, whichever occurs
35 later. In addition, an Oil and Gas Permit shall automatically lapse
36 and have no further effect if the use is discontinued for 180-
37 consecutive days.

38 **11. Permit Exceptions.**

39 a. Operations not in conformance with this Code as of July 7, 2012, or
40 that are in existence and are located within territory that is thereafter

annexed to the City, may continue without the issuance of an Oil and Gas Permit until the Operation is expanded, new wells are drilled, or a permit is issued by the COGCC that allows further or additional Operations or modifications to existing Operations. The right to operate any non-conforming Operations terminates if the use thereof is discontinued for six (6) months or more.

- b. Any renovation, replacement or repair of nonconforming Oil and Gas Facilities shall be allowed without an Oil and Gas Permit, provided such work does not increase the degree of nonconformity. The replacement or addition of individual conforming tanks, treaters, or separators shall not require the remaining equipment or systems at an Oil and Gas Facility to conform to the development standards in this Section.

12. Best Management Practices Document.

- a. The City Council may adopt additional standards, protections, and specifications through a series of Best Management Practices (“BMP Document”), adopted by the City Council by ordinance, that shall apply to all Oil and Gas Operations within the City. All Oil and Gas Permit holders shall at all times comply with the BMP Document, 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.

13. Regional Operator Agreement.

- a. The Director may negotiate and execute, consistent with the provisions of the Commerce City Charter and the Commerce City Revised Municipal Code, a Regional Operator Agreement to establish terms and conditions for the protection of the public health, safety, and welfare and the environment with any Operator who has submitted an application for an Oil and Gas permit under this Code or an application for a permit issued under the authority of the

1 Colorado Oil and Gas Conservation Commission regarding oil and
2 gas operations in the city.

3 b. A Regional Operator Agreement may include, among other things,
4 best management practices applicable to all current and proposed
5 Operations of the Operator within the City.

6 c. A Regional Operator Agreement shall not waive or exempt the
7 Operator from any applicable law, regulation, or standard, including
8 any requirement of the Commerce City Revised Municipal Code,
9 unless such variance is specifically authorized by law, regulation, or
10 standard in question.

11 d. No Regional Operator Agreement shall grant or be deemed to grant
12 vested rights to any Operator or authorize any activity regulated by
13 the city except pursuant to applicable permitting requirements.

14 e. A Regional Operator Agreement shall be in addition to, and shall not
15 replace, the requirement of a site-specific Extraction Agreement
16 required for each Oil and Gas Permit.

17 f. The Director may seek input from the City Council regarding the
18 negotiation and terms of any Regional Operator Agreement.

19 g. No Regional Operator Agreement may be finalized and executed
20 before the draft agreement has been made available to the public for
21 inspection and written comment for a period of no less than twenty-
22 one (21) days. Following such period of public comment, the Director
23 may incorporate modifications to such draft without the requirement
24 of further public comment unless requested by the Operator, the
25 Director, or the City Council.

26 **14. Assignment of Permits.** An Oil and Gas Permit may be assigned to another
27 Operator only with the written consent of the Director. The Director may
28 consent to an assignment of a permit only if:

29 a. The new Operator can and will comply with all requirements, terms
30 and conditions of the Code, the Oil and Gas Permit and any Regional
31 Operator Agreement and all applicable state, local and federal laws,
32 rules and regulations;

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

35 c. The new Operator will remedy any on-site noncompliance with any
36 applicable local or state regulations and permits, as a condition of
37 the assignment;

1 d. The Oil and Gas Permit was approved more than 90 days before the
2 assignment.

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

7 *Section added by Ord. 1891, August 2012*

8 **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.)

1 EXHIBIT F TO ORDINANCE 2266

2 **Sec. 21-5266. Subsurface Extraction**

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

6 (2) **Applicability.**

7 (a) Subject to the provisions of this section, no Oil or Gas Operations
8 ("Operations") shall be initiated in any manner within the City prior
9 to issuance of an Oil and Gas Permit.

10 (b) All Operations are subject to the requirements of this section,
11 Section 21-3235, and other parts of this code directly addressing
12 Operations. If such provisions directly conflict with any other
13 generally applicable provisions of the Code, sections of this code
14 directly addressing Operations shall supersede but such conflict
15 shall not alleviate an Operator from obtaining any required
16 permits or approvals.

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

19 (a) City application form and applicable, non-refundable application
20 fee and all other applicable fees, excluding those payable at the
21 time of permit issuance, unless not otherwise due at the time of
22 application;

23 (b) An Eligibility Letter from the City confirming the site proposed in
24 the application is a qualified as eligible;

25 (c) Information sufficient to determine compliance with the BMP
26 Document;

27 (d) A legal description of the property to be used for the Operation;

28 (e) Evidence of legal authority to use the proposed location for the
29 proposed Operations;

30 (f) List of all permits or approvals obtained or to be obtained from
31 local, state, or federal agencies, including any exceptions or
32 variances that are required;

- 1 (g) Operator and applicant name(s), telephone number(s),
2 address(es), and if possible, email address(es); if the Operator is
3 a corporation, the state of incorporation, and if the Operator is a
4 partnership, the names and addresses of the general partners;
- 5 (h) Name of representative with supervisory authority over the
6 proposed Operation and a twenty-four-hour phone number;
- 7 (i) Location and description of all improvements, including water
8 wells, and habitable structures, all utility easements and rights of
9 way of record, and all existing irrigation and drainage ditches
10 within 1500' of the proposed Operation;
- 11 (j) Owner and address of each parcel of property within 2500' of the
12 proposed Operation;
- 13 (k) The location of existing sensitive wildlife habitats, natural areas,
14 or open space within 1500' of the well site or Production Site, if
15 any;
- 16 (l) A Site Plan for the proposed Operation showing the location of all
17 improvements and drilling equipment, including, but not limited
18 to, the location of the proposed well(s) and other facilities, tanks,
19 pipelines, compressors, separators, and storage tanks, including
20 the number of the potential maximum number of wells to be drilled
21 and associated drilling equipment;
- 22 (m) A Water Plan describing the water sources to be used for the
23 Operations and the proposed method of delivery;
- 24 (n) A specific plan to satisfy insurance and financial assurance
25 requirements under this section;
- 26 (o) A notarized statement, under oath, signed by the Operator, or
27 designated representative, that the information submitted with the
28 application is, to the best knowledge and belief of the Operator or
29 designated representative, true and correct;
- 30 (p) A Schedule of Operations showing estimated project schedule
31 that may vary for all phases, including "construction phase"
32 (including pipeline construction), "drilling phase," "completion
33 phase" (detailing activity-based components including flowback),
34 and "production phase" (including estimated timelines for interim
35 reclamation and landscaping);
- 36 (q) An Electrification Plan identifying all sources of electricity that will
37 be brought to or used at the Well Site during all phases, including
38 drilling, completion and production;

- 1 (r) A Noise Management Plan to manage noise at or below the levels
2 indicated in the BMP Document. The plan must include a
3 baseline noise study as well as noise modeling of equipment
4 proposed for the site for drilling and completions;
- 5 (s) A Traffic Control Plan showing public and private roads that
6 traverse or provide access to the proposed operation and a plan
7 showing the estimated number of vehicle trips per day for each
8 type of vehicle, proposed haul routes to and from the site, and
9 measures to mitigate adverse impacts to traffic patterns and
10 safety caused by the proposed operation. The traffic control plan
11 shall provide this information for each phase of Operations;
- 12 (t) A Traffic Impact Study, prepared by a vendor selected by
13 Operator from a City-approved list of vendors, which shall clearly
14 identify and distinguish impacts to City roads and bridges related
15 to Facility construction, Operations and ongoing new traffic
16 generation. Traffic impact studies shall be prepared in
17 accordance with City standards and requirements. The study
18 shall include a traffic mitigation plan addressing transportation
19 impacts that will typically include, but not be limited to, a plan for
20 traffic control, the receipt of all necessary permits, ongoing
21 roadway maintenance and improving or reconstructing City
22 roads;
- 23 (u) An Air Quality Mitigation Plan showing a modeling assessment of
24 cumulative air quality impacts and a plan and schedule to
25 maintain air quality, including a plan to minimize VOC emissions
26 in compliance with the BMP Document;
- 27 (v) A Dust Mitigation Plan to control dust and minimize visible dust
28 emissions from roadways or from Operations;
- 29 (w) An Emergency Response Plan as detailed in the BMP Document.
30 In preparation of the Emergency Response Plan, Operator shall
31 engage with emergency responders and prepare a plan that
32 includes, without limitation, documentation of the
33 communications and coordination with the City and nearby
34 schools related to evacuation of the nearby schools and all
35 persons residing within a one-half (1/2) mile radius from the edge
36 of disturbance. The Emergency Response Plan must detail all
37 criteria for persons to be notified in the event of an emergency
38 and training for first responders;

- 1 (x) A Will-Serve Letter from the applicable fire district(s), stating that
2 the Operator has agreed to provide adequate emergency
3 response equipment, any necessary training, or fee-in-lieu
4 satisfactory to the district, to adequately respond to potential
5 events that may result from Operations;
- 6 (y) A Resource Mobilization/Cache Plan to ensure emergency
7 responders have available the equipment necessary to respond
8 to any emergency identified in the emergency response plan,
9 which shall provide that the equipment be stationed in locations
10 as to be readily available for any emergency for any oil and gas
11 facility covered by the plan;
- 12 (z) A Waste Management Plan that identifies the projected waste
13 from the site and plans for disposal of such waste;
- 14 (aa) A Hazardous Materials Management Plan that identifies all
15 hazardous materials that will be brought on site, how they will be
16 transported and used, and measures to prevent any release of
17 those materials;
- 18 (bb) A Temporary Sanitary Facilities Plan describing the sanitary
19 facilities that will be provided for persons present at the Well Site;
- 20 (cc) A Water Quality Monitoring Plan describing water quality
21 monitoring practices as required by the BMP Document;
- 22 (dd) A Spill Prevention, Control, and Countermeasure Plan describing
23 spill prevention and mitigation practices as required by the BMP
24 Document;
- 25 (ee) A Stormwater Pollution Prevention and Erosion Control Plan to
26 minimize impacts to surface waters from erosion, sediment, and
27 other sources of non-point pollution. The stormwater control plan
28 required by COGCC Rule 1002(f) may be provided to establish
29 compliance with this provision;
- 30 (ff) A Wetlands Protection Plan, if any part of a proposed Operation
31 abuts or is adjacent to or may affect or impact a wetland,
32 demonstrating that the Operations shall not cause degradation to
33 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

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

(4) Third Party Technical Review. The City may require third-party consultants to participate on behalf of the City in the Initial Assessment Process, to review any submittals or applications to the City, 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

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

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

(6) Setbacks and Floodplain Restriction.

- (a) No Oil and Gas Production Site may be located 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

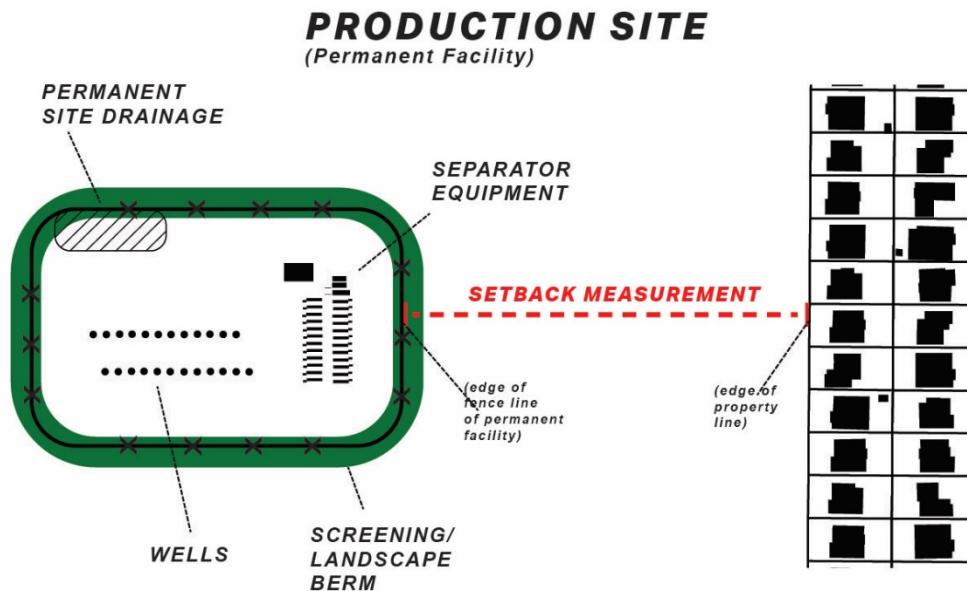
(vi) Reservoirs.

(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.
- (b) Fencing. Above-ground Operations shall be fenced and gated as part of the Visual Mitigation Plan and Security Plan. Fencing shall be eight-foot (8') high, wrought iron fencing, Ameristar Impasse, Stronghold fencing, or an equivalent, or better, as approved in the Visual Mitigation Plan. Eight-foot (8') high masonry may be used as an alternate.
- (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.
- (ii) All plant materials shall be maintained in a healthy growing condition at all times. The Operator is responsible for the regular weeding, mowing, fertilizing, pruning and other maintenance of all plant materials as needed. Adequate irrigation of plant materials (excluding existing vegetation) shall be provided by the Operator.
- (d) Lighting. To the maximum extent practicable, exterior lighting shall be downcast to reduce spill-over to adjacent properties and directed away from residential and 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.
- (e) Signs and Markers. The Operator shall mark each and every Oil and Gas Well as required in the BMP Document.

1 **(8) Environmental Standards.**

2 (a) Wildlife Mitigation.

3 (i) General. When Operations will be located within or adjacent
4 to a sensitive wildlife area or city designated open space, the
5 Operator shall consult with the Colorado Parks and Wildlife to
6 obtain recommendations for appropriate site-specific and
7 cumulative impact mitigation procedures. The Operator shall
8 implement such mitigation procedures as are recommended
9 by the Colorado Parks and Wildlife after consultation with the
10 City. When Operations are adjacent to or within a federal
11 wildlife or natural area, the Operator shall consult with the
12 relevant federal authority to satisfy any applicable federal
13 rules or regulations relevant to Operations. In all such
14 instances, the Operator shall file a mitigation plan with the
15 City.

16 (ii) Endangered Species. The Operator shall not engage in
17 activities that Colorado Parks and Wildlife, or other relevant
18 federal authorities, indicates would threaten endangered
19 species.

20 (b) General Waste Management.

21 (i) The Operator shall at all times keep all aspects of an
22 Operation, including roads and rights-of-way, safe and in
23 good order and free and clear of noxious weeds, litter and
24 debris.

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

28 (c) Sanitary Regulations.

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

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

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

(iv) During extended construction and maintenance Operations, the Operator shall, at convenient places within the Oil and Gas Well Site, provide fly-proof outside toilets, which shall be maintained in a sanitary condition 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.

(d) Drainage and Stormwater Management.

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

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

(9) Nuisance Standards.

(a) Odor/Dust Containment. Operations shall be conducted in such a manner that odors and dust do not constitute a nuisance or hazard to public health, safety, welfare 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.

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

(ii) The Operator shall comply with all provisions of COGCC Rule 802 on Noise Abatement, as may be amended from time to time. The maximum permissible noise levels to be applied under Rule 802 shall be, other than during pad construction at the Well Sites, the greater of: (i) the levels set forth for the land use type of “Residential/Agricultural/Rural” under Rule 802 if measurements are taken at 1,000 ft. from the sound walls at the Well Site; or (ii) 4 dB(A) higher than baseline ambient sound measured at 1,000 ft. from the sound walls at the Well Site. During pad construction at the Well Sites, noise levels shall not exceed those produced by the construction of a typical residential or commercial development.

(iii) Operators may be required to provide for additional noise mitigation as described in the BMP Document.

(10) Traffic Standards.

(a) If public road improvements are necessary to accommodate an Operation, and before work will be permitted within any City right-of-way, the Operator shall 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.

(b) Maintenance. If Operations or 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 (e.g. graveling, shouldering, paving) as determined in the Traffic Impact Study.

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

(d) Private Access Roads. All private roads used to access or conduct Operations shall be constructed in compliance with the approved Stormwater Management Plan. The Operator shall comply with City standards regarding vehicle tracking and dust mitigation.

(e) State Highway Access. Where a Site's access is directly to a state highway, the Operator must procure and maintain an approved State Highway Access Permit.

(f) Access Roads.

(i) Tank Battery Access Roads. Access roads to tank batteries shall be, at a minimum, a graded gravel roadway at least twenty feet (20') wide with a minimum unobstructed overhead clearance of seventeen feet (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 seventeen feet (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.

(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.

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

(a) Injection Wells for disposal of oil and gas Exploration and Production Wastes;

(b) Gas Storage Wells;

(c) Disposal pits;

(d) Commercial disposal facilities;

1 (e) Centralized Exploration and Production Waste management
2 facilities; and

3 (f) Subsurface disposal facilities.

4 **(12) Air Quality Standards and Monitoring.**

5 (a) The Air Quality Mitigation Plan must consider the cumulative impacts
6 to existing air quality and all planned and existing oil and gas
7 operations within one mile of the City. The Plan must describe how
8 the Operator will eliminate, capture, or minimize all potentially
9 harmful emissions, including Volatile Organic Compounds (VOC's)
10 and BTEX through compliance with these provisions and the BMP
11 Document.

12 (b) Operator shall minimize dust associated with onsite activities and
13 traffic on access roads pursuant to the terms as identified herein.

14 (c) Operator shall comply with all applicable state and federal
15 regulations including regulations promulgated by CDPHE, COGCC
16 and US EPA.

17 (d) Ambient Air Monitoring. Operator shall create and submit an air
18 monitoring plan describing how the Operator will conduct baseline
19 monitoring prior to construction of the well site. The plan shall also
20 describe how the Operator will conduct continuous monitoring and
21 collect periodic canister samples (or equivalent method) during the
22 drilling, completion and production phases of development. Air
23 pollutants monitored by canister samples shall include, but are not
24 limited to, methane, VOCs, Hazardous Air Pollutants (HAPs), Oxides
25 of Nitrogen (NOx), Particulate Matter (PM), and Fine Particulate
26 Matter (PM 2.5). At Operator's cost, a third-party consultant
27 approved by the City shall conduct baseline and ongoing air
28 sampling and monitoring. Such sampling and monitoring shall
29 comply with the following requirements:

- 30 i. Baseline sampling shall be conducted within 500 feet of a
31 proposed facility over a 90-day period.. Baseline sampling
32 shall track levels and changes in monitored air pollutant
33 concentrations. Baseline sampling data shall be provided as
34 part of the Oil and Gas permit submittal.

- 1 ii. Continuous monitoring for hydrocarbons shall occur during
2 the drilling and completions phase of oil and gas
3 development. Each hydrocarbon monitor shall include a
4 sampling device to automatically collect an air sample when
5 the monitor levels reach a trigger level defined below in (iii).
6 Monitors shall also include meteorological monitoring
7 capabilities. Continuous monitoring may not cease until three
8 years have passed from the date the last well drilled on the
9 site has entered the production phase, unless any use defined
10 in 21-5266(6a) is within 1,000' of the edge of the well site. In
11 such instance, continuous monitoring shall be required until
12 all wells are plugged and abandoned.
- 13 iii. An increase in the detection of hydrocarbon greater than the
14 ambient levels determined during baseline sampling plus the
15 anticipated change based on Operator-provided impacts of
16 modeled operations shall require the Operator to collect a
17 further sample utilizing an 8-hour canister sample immediately
18 after detection.
- 19 iv. In the event a canister sample is triggered, the city shall be
20 notified within one hour after the occurrence of such event.
21 Depending on the circumstances, expedited lab analysis may
22 be required.
- 23 v. In response to a reportable safety event, as defined by
24 COGCC Rule 602(c), a spill, release, or a reported and
25 substantiated nuisance that occurs outside of drilling and
26 completion Operations, the City may require additional air
27 quality sampling or monitoring as deemed reasonably
28 necessary by City. The Operator shall reimburse the City for
29 all costs incurred by the City as a result.

30 **(13) Abandonment and Plugging.**

- 31 (a) The Operator shall comply with all COGCC rules in relation to
32 abandonment and plugging.
- 33 (b) For new Oil and Gas Facilities, the Operator shall be required to plug
34 and abandon all existing vertical wells owned or controlled by the
35 Operator within a proposed drilling and spacing unit (DSU) that target
36 the same formation as any proposed horizontal wells.
- 37 (c) Operators of wells that are to be plugged and abandoned shall notify
38 both the City's Local Government Designee (LGD) and the
39 applicable fire district not less than one week prior to commencing
40 plugging operations.

(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.

(e) Operators shall provide copies of all COGCC plugging and abandonment reports to the City concurrent with filing the reports with the COGCC.

(f) It shall be unlawful for any Operator or other person to reactivate a plugged or abandoned Oil and Gas Well unless a new Oil and Gas Permit has first been issued by the City. The recompleting or reworking of an Oil and Gas Well and relocation of accessory equipment or gathering and transmission lines will be permitted if all applicable State applications are obtained.

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

(a) Oil and Gas Transportation Impact Fee. The Operator shall pay an Oil and Gas Transportation Impact Fee, pursuant to Section 21-9260.

(b) Inspection fees. The applicant shall provide reimbursement to the city for the full cost necessary to inspect any Well Site. Upon completion of an inspection, the applicant shall receive an invoice for the cost of such inspection.

(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

1 with this section. Such requirements shall include, at a
2 minimum, standard language for each type of financial
3 assurance; qualifications for issuing institutions; and
4 procedures for the review, processing, acceptance,
5 replacement, cancellation and termination, use, release,
6 reduction, or aggregation of financial assurances and standby
7 trusts to implement financial assurances. Such requirements
8 shall be reviewed and updated by the City Manager as
9 needed to meet the intent of this section.

10 (iii) Minimum Requirements.

- 11 1. Amount. The financial assurance shall be in the
12 amount of ninety thousand dollars (\$90,000.00),
13 multiplied by the number of approved wells on the
14 associated planned well site. The Financial Assurance
15 (including any existing Financial Assurance) shall be
16 adjusted for inflation on January 1, 2021, and on
17 January 1 of each year thereafter. "Inflation" shall
18 mean the annual percentage change in the United
19 States department of labor, bureau of labor statistics,
20 consumer price index for Denver-Aurora-Lakewood, all
21 items, all urban consumers, or its successor index.
- 22 2. Term. The financial assurance required by this section
23 shall be provided to the City before the commencement
24 of any work, including Well Pad construction, and shall
25 remain shall be provided until all wells at the Well Site
26 have been plugged and abandoned and the well site
27 has been adequately reclaimed, as determined by the
28 City, unless the financial assurance replaced or
29 released or reduced pursuant to administrative
30 regulations established by the City Manager. No
31 financial assurance shall be released or reduced
32 unless: (A) alternate financial assurance is provided; or
33 (B) the Director determines that the amount of financial
34 assurance released or reduced is not necessary to
35 ensure the purpose for which it was provided.
- 36 3. Type. The financial assurance must be in the form of a
37 surety bond or irrevocable standby letter of credit, or
38 approved combination thereof.
- 39 4. Purpose. The Financial Assurance must guarantee, at
40 a minimum, that the Operator will:

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

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

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

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

23 (iv) State Bonding Requirements. The financial assurance
24 required by this section shall not be a substitute for any
25 bonding required by the state regulatory agencies for plugging
26 and abandoning wells. The Operator shall comply with all
27 state regulatory agencies' bonding requirements.

28 (v) Financial Setback Notification. Operator shall notify the City of
29 the existence of the occurrence of any of the following events
30 within five (5) business days of their occurrence, provided
31 notification by the Operator shall not be a condition to the
32 City's use of any financial assurance: The Operator files for
33 protection under the bankruptcy laws, makes an assignment
34 for the benefit of creditors, appoints or suffers appointment of
35 a receiver or trustee over its property, files a petition under
36 any bankruptcy or insolvency act or has any such petition filed
37 against it which is not discharged within ninety (90) days of
38 the filing thereof;

39 (vi) No Liability for Claim. The City shall not be liable to the
40 Operator or any surety, guarantor, or financial institution for
41 consequential damages arising from the City's exercise of its

1 rights under this section, including without limitation a claim
2 for impairment of bonding capacity.

3 (c) Performance Security. To ensure compliance with mitigation and
4 other requirements set forth in this section, the BMP Document, and
5 any permit conditions, the Operator may be required to provide
6 reasonable performance security to the City in a form acceptable to
7 the City.

8 (d) Cost Reimbursement. The Operator shall reimburse the City, the
9 applicable fire district, and any other emergency service provider for
10 any emergency response costs incurred by any of them in
11 connection with the Operations.

12 **(16) Inspection by the City.**

13 (a) The City has the right to inspect all Well Sites, Operations, and Oil
14 and Gas Facilities. No person shall refuse entry to, impede, obstruct,
15 delay, or in any manner interfere with the inspection of Oil and Gas
16 Facilities subject to an Oil and Gas Permit or the regulations of this
17 section or section 21-3235 by any federal, state, county, or local
18 inspector who is either permitted or required to inspect the premises.
19 Entry and inspection shall be permitted to all areas of the Oil and Gas
20 Facility as defined by this code. No inspector shall be required to be
21 escorted or accompanied during an inspection.

22 (b) Any attempt to refuse entry to, impede, obstruct, delay, or in any
23 manner interfere with a lawful inspection, or to require that an
24 inspector be escorted or accompanied during an inspection, shall
25 constitute grounds for revocation of an Oil and Gas Permit in addition
26 to any other penalties permitted by the code.

27 (c) The Operator shall provide the telephone number of a contact person
28 who may be reached 24 hours a day.

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

- 34 a. There is no deviation from the approval criteria of 21-3235(8);
- 35 b. The proposed reduction is the minimum needed for the reasonable
36 development of mineral resources at the proposed location;

- 1 c. Through alternative site analysis, the applicant has demonstrated
2 that no other reasonable locations exist to access the targeted
3 minerals;
- 4 d. The applicant has incorporated any necessary additional Best
5 Management Practices beyond current requirements to mitigate
6 additional impacts that may arise from the reduced setback distance;
7 and
- 8 e. Bulk standards are not modified by greater than 20% of the minimum
9 value.

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

13 **(18) Enforcement and Penalties.**

- 14 (a) Failure to Obtain Permits. Any Operator that fails to obtain an Oil and
15 Gas Permit, or that fails to comply with requirements of this code, the
16 Oil and Gas Permit, the BMP Document or any applicable Regional
17 Operator Agreement or Extraction Agreement, may be enjoined by
18 the City from engaging in Operations and may be subject to such
19 other criminal or civil liability as may be prescribed by law.
- 20 (b) Suspension of Oil and Gas Permit. If the City determines that the
21 Operator has violated any term or condition of this Code, the Oil and
22 Gas Permit, the BMP Document or any applicable Regional Operator
23 Agreement or Extraction Agreement, or that one or more material
24 changes to the Operations or Oil and Gas Facilities have been made
25 without the express, written consent of the City, the Director may
26 temporarily suspend the Oil and Gas Permit and order all Operations
27 permitted by the City under the Oil and Gas Permit to cease upon
28 written notification to the Operator. In such event, the Operations
29 shall be safely ceased as soon as possible. This suspension shall be
30 in addition to any other enforcement mechanism available to the City.
- 31 (c) Revocation of Oil and Gas Permit. In the manner consistent with this
32 code, revocation of an Oil and Gas Permit may be premised upon a
33 violation of any term or condition of this Code, any term or condition
34 of the Oil and Gas Permit, the BMP Document, or any applicable
35 Regional Operator Agreement or Extraction Agreement, or if one or
36 more material changes to the Operations or Oil and Gas Facilities
37 have been made without the consent of the City.
- 38 (d) COGCC Enforcement Orders.

(i) Within five (5) business days of the receipt of a COGCC Enforcement Order for a violation occurring in the City, the Operator shall provide the Enforcement Order to the City.

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

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 G TO ORDINANCE 2266

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

Oil & Gas Site Setbacks.

- (1) For permitted or existing Well Sites where all permitted wells have not been plugged and abandoned in compliance with all applicable COGCC standards and regulations, no new residential lots may be platted within 1,000' of such site.
- (2) Measurements shall be taken from the edge of the production site, in the same manner as defined in 21-5266(6)
- (3) Plat requirements. The following information shall be denoted on all final plats:
 - a. The location of any oil and gas wells, flowlines, and gathering lines, and any associated easements;
 - b. The location of all recorded surface use agreements; and
 - c. The location of any plugged and abandoned oil and gas wells, flowlines and gathering lines, including a plat designation surrounding such wells and expressly prohibiting any habitable building or structure within 50 feet.
- (4) Vacation of Existing Easements. No easement may be vacated for a previous or existing well, flowline, or gathering line, unless documentation is provided to the city demonstrating such well, flowline, or gathering line has been vacated in compliance with all applicable COGCC regulations.

1 EXHIBIT H TO ORDINANCE 2266

2 ***DIVISION 2: DEFINITIONS***

3 **Sec. 21-11200. Definitions**

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

8 (1) **Access Easement** shall mean an interest in land which allows one or more
9 persons to travel across another person's land.

10 (2) **Accessory Building or Structure** shall mean a subordinate structure
11 located on the same lot with the principal building, occupied by or devoted to an
12 accessory use. Accessory structures include, but are not limited to, storage sheds,
13 garages, covered porches, large satellite dishes, and telecommunication
14 antennas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (24) **Area of Shallow Flooding** shall mean a designated AO, AH, or VO zone
14 on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater
15 annual chance of flooding to an average depth of one to three feet where a clearly
16 defined channel does not exist, where the path of flooding is unpredictable and
17 where velocity flow may be evident. Such flooding is characterized by ponding or
18 sheet flow.

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

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

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

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

34 (29) **Artisan/Handcrafted Manufacturing** shall mean the shared or individual
35 use of hand-tools, mechanical tools and electronic tools for the manufacture of
36 finished products or parts including design, processing, fabrication, assembly,
37 treatment, and packaging of products; as well as the incidental storage, sales and
38 distribution of such products. Typical artisan manufacturing uses include, but are
39 not limited to: electronic goods, food and bakery products; non-alcoholic

1 beverages; printmaking; household appliances; leather products; jewelry and
2 clothing/apparel; metal work; furniture; glass or ceramic production; paper
3 manufacturing.

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

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

14 (32) **Auction** shall mean a place where objects of art, furniture, or other goods
15 are offered for sale to persons who bid on an object in competition with each other.
16 For an auction to be classified as an indoor auction, all auction activities shall occur
17 within an enclosed building, including storage and processing of items to be
18 auctioned.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (47) **Boarding, Lodging, or Rooming House** shall mean a group living facility
37 where meals, lodging, or both, are provided for compensation for five or more
38 persons, but not more than eight persons, not including members of the owner's

1 or proprietor's immediate family who might be residing in the same building. The
2 word compensation shall include compensation in money, services, or anything of
3 value. A boarding, lodging, or rooming house shall not include more than one
4 person required to register as a sex offender pursuant to C.R.S. § 18-3-412.5, as
5 amended.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (68) **Centralized Exploration and Production (E&P) Waste Management**
34 **Facility** shall mean a facility, other than a commercial disposal facility regulated
35 by the Colorado Department of Public Health and Environment, that is either used
36 exclusively by one owner or operator or is jointly used by more than one operator
37 under an operating agreement for collection, treatment, temporary storage, and/or
38 disposal produced water, drilling fluids, completion fluids, and any other E&P

1 wastes as defined by the COGCC Rules. This definition includes oil-field naturally
2 occurring radioactive materials (NORM) related storage, decontamination,
3 treatment, or disposal. This definition excludes a facility that is permitted in
4 accordance with COGCC Rules.

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

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

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

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

13 (73) **Child Care Center** shall mean a facility, by whatever name known, which
14 is maintained for the whole or part of a day for the care of 7 or more children under
15 the age of 18 years who are not related to the owner, operator, or manager thereof,
16 whether such facility is operated with or without compensation for such care, and
17 shall include facilities commonly known as day nurseries, nursery schools,
18 preschools, play groups, day camps, summer camps, centers for developmentally
19 disabled, and those facilities which give 24-hour care for dependent and neglected
20 children; and shall include those facilities for children under the age of 6 years with
21 stated educational purposes operated in conjunction with a public, private,
22 parochial college or a private or parochial school, except that the term shall not
23 apply to any kindergarten maintained in connection with a public, private, or
24 parochial elementary school system of at least 6 grades.

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

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

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

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

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

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

34 (80) **Collector Street** shall mean a street which has the primary function of
35 providing for the distribution of traffic within neighborhoods and which carries

1 through traffic and provides access to abutting property. A collector street is also
2 a through street.

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

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

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

13 (84) **Combustible Liquid** shall mean any liquid having a flash point at or above
14 140° F., and below 200° F., and shall be known as Class III liquids.

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

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

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

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

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

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

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

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

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

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

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

33 (96) **Completions** shall mean, as it relates to Oil and Gas Operations, an oil well
34 shall be considered completed when the first new oil is produced through well head
35 equipment into lease tanks from the ultimate producing interval after the production
36 string has been run. A Gas well shall be considered completed when the well is
37 capable of producing gas through wellhead equipment from the ultimate producing
38 zone after the production string has been run. A dry hole shall be considered
39 completed when all provisions of plugging and abandonment are complied with as
40 set out in the COGCC rules. Any well not previously defined as an Oil or Gas Well,
41 shall be considered completed ninety (90) days after reaching total depth. If

1 approved by the COGCC Director, a well that requires extensive testing shall be
2 considered completed when the drilling rig is released or six months after reaching
3 total depth, whichever is later.

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (110) **Critical Facility** shall mean a structure or related infrastructure, but not the
14 land on which it is situated, as specified in Rule 6 of the State of Colorado,
15 Department of Natural Resources, Colorado Water Conservation Board document
16 entitled “Rules and Regulations for Regulatory Floodplains in Colorado,” dated
17 November 17, 2010 and as may be amended from time to time, that if flooded may
18 result in significant hazards to public health and safety or interrupt essential
19 services and operations for the community at any time before, during and after a
20 flood. Generally, critical facilities are those that shelter essential services,
21 hazardous materials, and at-risk populations. If it is unclear whether or not a facility
22 falls within the context of Rule 6, the Floodplain Administrator shall have the sole
23 authority to make such determination.

24 (111) **Crosswalk** shall mean that portion of a roadway included within the
25 prolongation or connection of the lateral lines of sidewalks at intersections or any
26 portion of a roadway distinctly indicated for pedestrian crossing by lines or other
27 marking on the surface.

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

30 (113) **Cul-de-sac** shall mean a street having one end open to traffic and being
31 terminated at the other end by a vehicular turnaround.

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

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

3 (116) **Day Care Center, Adult** shall mean a facility, whether non-profit or for-
4 profit, that provides care, protection, and supervision for 6 or more adults on a
5 regular basis away from their primary residence for less than 24 hours per day.

6 (117) **Day Labor Facility** shall mean any facility at which job seekers wait on site
7 to be hired by the day or by short-term job by third parties. Job seekers generally
8 must be present to obtain work, are often immediately transported to a job site,
9 and typically return to the facility for payment. Related support services may be
10 offered to job seekers while they wait on site.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (133) **Drilling and Spacing Unit** shall mean the section(s) of land encompassing
33 a particular area for the subsurface extraction of oil and gas resources that may
34 be targeted by one or more oil and gas wells, as approved by COGCC order or
35 statute.

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

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

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

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

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

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

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

19 (141) **Dwelling, Accessory** shall mean a second dwelling unit either within or
20 added to an existing single-family detached dwelling, or in a separate accessory
21 structure on the same lot as the main dwelling, for use as a complete, independent
22 living facility with provision within the accessory dwelling for cooking, eating,
23 sanitation, and sleeping.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 uniquely associated with the operations to recover natural gas from underground
2 storage fields are considered to be E&P Wastes.

3 (157) **Explosives** shall mean:

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

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

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

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

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

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

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

21 (161) **Family** shall mean:

22 (a) An individual or two or more persons related by blood, marriage,
23 adoption, or legal custody, including those persons defined by the
24 Internal Revenue Code who qualify as dependents of the
25 occupants of the subject premises, living together in a dwelling
26 unit; or

27 (b) A group of not more than three persons, not related by blood,
28 marriage, or adoption, living together in a dwelling unit.

29 (c) Except that a family shall not include more than one individual
30 who is required to register as a sex offender under the provisions
31 of the C. R. S. Sec. 18-3-412.5, as amended, except if the
32 members of the family are related by blood or marriage, or if such

1 individuals have been placed by order of a state agency with
2 jurisdiction.

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

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

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

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

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

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

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

33 (168) **Financial Institutions** shall mean establishments that provide retail
34 banking services, mortgage lending, and similar financial services to individuals
35 and businesses. This classification includes those institutions engaged in the on-
36 site circulation of cash money and check-cashing facilities, but shall not include
37 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.

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

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

(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.

(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.

(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.

(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.

(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.

(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.

(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.

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

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

(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.

(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.

(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.

(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.

(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.

(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.

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

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

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

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

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

19 (191) **Foster Care Home** shall mean a facility, as defined by C.R.S. § 26-6-
20 102(4.3), as amended, that is properly licensed by the state of Colorado, Adams
21 County, or any of its designees as a foster care home. The age of a child placed
22 in a foster care home may not exceed 18 years, or in the case of a child placed in
23 foster care by court order prior to his or her 18th birthday, 21 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 associated equipment or supplies, and the sale of food to the patrons of the
2 establishment.

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

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

15 (213) **Hazardous Waste Disposal Site** shall mean such site for disposal of
16 hazardous waste as defined by the C.R.S. § 25-15-200.3.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (226) **Inert Material Disposal Site** shall mean any placement in an excavation or
36 on top of the ground of dirt, gravel, rock, asphalt, slag, brick, concrete, cinders and
37 any other type of noncombustible materials in accordance with the regulations set

1 forth in this land development code except for any such placement of materials
2 approved by the department of community development for use in conjunction with
3 a change in elevation for development of the site. Inert Material is defined in C.R.S.
4 § 25-15-101(14).

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

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

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

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

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

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

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

38 (234) **Landfill** shall mean a disposal site or facility employing an engineered
39 method of disposing of solid waste, including demolition and construction debris.

1 For purposes of this code, the term landfill shall also apply to any solid waste
2 disposal site and facility or any type of hazardous waste disposal site and facility.

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

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

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

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

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

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

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

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

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

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

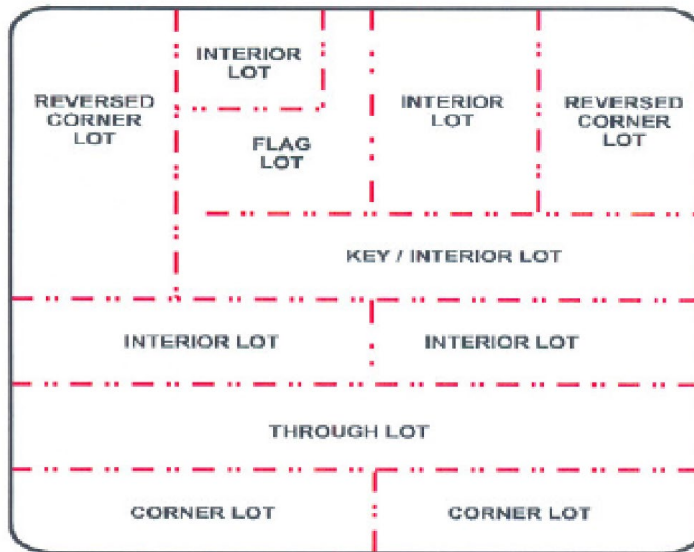
(245) **Local Street** shall mean a street which has the primary function of providing access to abutting property and which does not normally carry through traffic.

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

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

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

Figure XI-4. Lot Types



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

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

(251) **Lot, Double Frontage** shall mean a lot that runs through a block from street to street and which has two non-intersecting sides abutting on two or more streets.

1 The required setbacks from each street shall comply with the zoning requirements
2 of the respective district.

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

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

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

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

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

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

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

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

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

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

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

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

33 (264) **Manufacturing** shall mean the process, assembly, fabrication, production,
34 construction or other preparation of a raw material product or component part of a
35 product to make, create or process towards or into a finished product. Products

1 may be finished or semi-finished and are generally made for the wholesale market,
2 for transfer to other plants, or to order for firms or consumers. Good are generally
3 not displayed or sold on site, but if so, they are a subordinate part of sales.

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

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

12 (267) **Marquee** shall mean a shelter projecting from and supported by the exterior
13 wall of a building constructed of rigid materials on a supporting framework. A
14 marquee is distinguished from an awning in that an awning is covered with non-
15 rigid material. A marquee is distinguished from a canopy in that a marquee is
16 cantilevered, whereas a canopy is supported by posts or other devices beyond the
17 building wall.

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

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

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

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

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

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

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

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

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

10 (277) **Microbrewery** shall mean an establishment where malt liquors are
11 manufactured and packaged on or off premises, manufacturing more than 5,000
12 but less than 60,000 barrels of malt liquor on its licensed premises each calendar
13 year.

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

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

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

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

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

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

1 (284) **Mobile Home** shall mean any wheeled vehicle, exceeding 8 feet in width or
2 32 feet in length, including towing gear and bumpers, with or without motor power,
3 built on a permanent chassis designed for residential occupancy, and containing
4 complete electrical, plumbing, and sanitary facilities designed for installation in a
5 permanent or semi-permanent manner without a permanent foundation that is
6 capable of being drawn over public highways by a motor vehicle. Modular homes
7 shall not be considered mobile homes. For the purpose of interpretation of this
8 land development code, mobile home shall not include travel trailers, camping
9 trailers, truck campers, and motor homes, as licensed and/or defined by the state
10 of Colorado when used or designed to be used as a dwelling as provided in this
11 definition.

12 (285) **Mobile Home Park** shall mean a parcel of land which has been planned
13 and approved for the placement of more than one mobile home, occupied for
14 dwelling, sleeping, or storage purposes for transient and/or non-transient use and
15 sometimes termed a trailer court, trailer camp, or trailer park.

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

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

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

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

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

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

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

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

(294) **Museum** shall mean a profit or non-profit, commercial or non-commercial establishment operated as a repository for a collection of nature, scientific, or literary curiosities, objects of interest, or works of art, not including the regular sale or distribution of the objects collected.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (313) **Oil and Gas Operation(s) or Operation(s)** shall mean exploration for oil
9 and gas, including the conduct of seismic operations and the drilling of test bores;
10 the siting; drilling; deepening, completion recompletion, reworking, or
11 abandonment of an oil and gas well or gas storage well; production operations
12 related to any such well including the installation of flowlines and gathering
13 systems; the generation, transportation, storage and treatment of oil and gas; any
14 construction, site preparation, or reclamation activities associated with such
15 operations; and any Oil and Gas well facility, Oil and Gas well site or location,
16 production site or other facility, site or location upon or within which any of the
17 foregoing are conducted, operated, installed, constructed, generated treated or
18 located.

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

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

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

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

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

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

6 (320) **Outdoor Storage** shall mean the placement of materials, merchandise,
7 stock, supplies, shipping containers, mobile storage containers, machines,
8 operable vehicles, equipment, manufacturing materials, or chattels of any nature
9 that are not kept in a structure having at least four walls and a roof, for a continuous
10 period of 24 hours or more. Outdoor storage shall not include:

11 (a) Items for the general public such as new and used cars,
12 recreational vehicles, boats, landscape stock or related materials,
13 or rental automobiles where such items are permitted for sale in
14 the district in which they are located;

15 (b) Outdoor parking of motor vehicles regularly used in connection
16 with the operation of an establishment or parked for less than 48
17 hours for maintenance;

18 (c) The storage of wrecked or inoperable vehicles.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (352) **Production Site** shall mean, as it relates to Oil and Gas Operations, the
6 surface area immediately surrounding proposed or existing production equipment,
7 or other accessory equipment necessary for oil and gas production activities,
8 including the fenced, walled, or enclosed area of the facility during the production
9 phase, exclusive of transmission and gathering pipelines. Production Site is
10 synonymous with the COGCC's definition of "working pad surface".

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

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

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

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

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

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

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

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

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

9 (362) **Public Water Supply Well** shall mean a well or system of wells that provide
10 water via piping or other constructed conveyances for human consumption to at
11 least 15 service connections or serves an average of at least 25 people for at least
12 60 days each year.

13 (363) **PUD** - see Planned Unit Development.

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

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

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

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

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

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

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

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

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

- 2 (a) Built on a single chassis;
- 3 (b) Four hundred-square feet or less when measured at the largest
4 horizontal projections;
- 5 (c) Designed to be self-propelled or permanently towable by a light
6 duty truck; and
- 7 (d) Not designed primarily for use as a permanent dwelling but as
8 temporary living quarters for recreational, camping, travel, or
9 seasonal use.

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

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

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

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

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

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

4 (379) **Research, Development, Testing Laboratories** shall mean research,
5 development, and testing laboratories that do not involve the mass manufacture,
6 fabrication, processing or sale of products. Such uses shall not violate any odor,
7 dust, smoke, gas, noise, radiation, vibration, or similar pollution standards as
8 specified herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

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

(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.

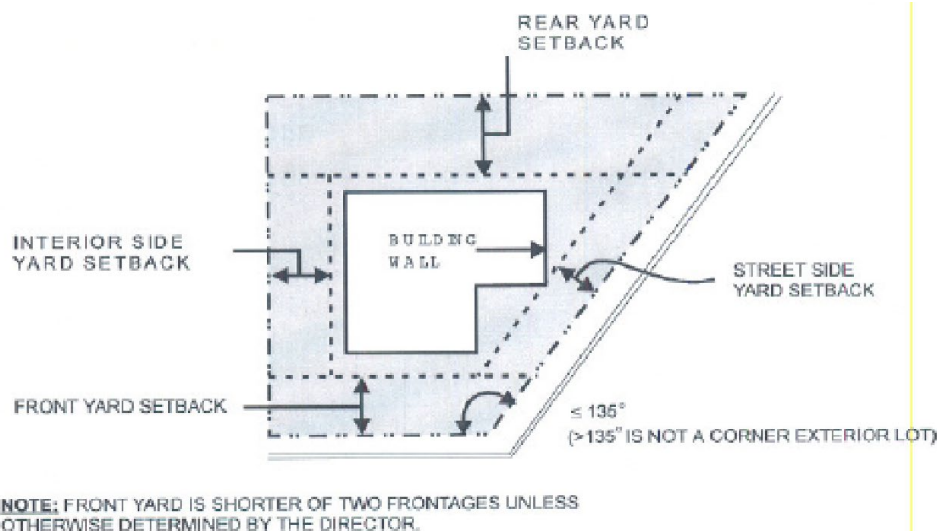
(403) **Semi-Trailers** - see Trailer

(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.

(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.

(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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (430) **Small cell** shall include “small cell facility” and shall be defined by C.R.S.
11 29-27-402(4) as currently exists and as may be amended from time to time.

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

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

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

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

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

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

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

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

10 (a) AG

11 (b) R-1

12 (c) R-2

13 (d) R-3

14 (e) R-4

15 (f) R-U

16 (g) C-1

17 (h) C-2

18 (i) C-3

19 (j) MU-1

20 (k) I-1

21 (l) I-1S

22 (m) I-2

23 (n) I-3

24 (o) PUBLIC

25 (p) MHP

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

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

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

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

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

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

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

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

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

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

28 (448) **Substantial Improvement** shall mean any reconstruction, rehabilitation,
29 addition, or other improvement of a structure, the cost of which equals or exceeds
30 50 percent of the market value of the structure before the start of construction of
31 the improvement. This term includes structures which have incurred substantial
32 damage, regardless of the actual repair work performed. The term does not,
33 however, include either:

- 34 (a) Any project for improvement of a structure to correct existing
35 violations of state or local health, sanitary, or safety code
36 specifications identified by the building official and that are the
37 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.

(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.

(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.

(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.

(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.

(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.

(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.

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

(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.

(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.

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

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

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

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

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

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

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

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

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

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

36 (469) **Trail** shall mean a publicly or privately owned or maintained trail/path
37 system open to the public, intended for non-motorized transportation such as

1 walking, jogging or biking, including trailheads. Trailheads may include parking
2 lots, drinking fountains, restrooms, picnic shelters, and related signage and
3 monumentation.

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

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

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

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

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

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

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

32 (477) **Truck Stop** shall mean any property on which a business involving the
33 maintenance, servicing, storage or repair of commercial vehicles of greater than
34 15,000 gross vehicle weight (GVW) is conducted, including the dispensing of motor
35 fuel or other petroleum products directly into motor vehicles; and the sale of
36 accessories or equipment for such commercial vehicles. A truck stop may also
37 include overnight accommodations and restaurant facilities.

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

3 (479) **Truck-Tractors** shall mean a motorized vehicle with two or more axles that
4 is used to pull a trailer for purposes of carrying property over the public highways
5 and generally and commonly used for such transport of cargo rather than
6 passengers. Truck-tractors may be operated in combination with, or separate from,
7 a trailer.

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

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

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

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

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

31 (485) **Use-By-Right** shall mean a use specifically permitted in a standard zoning
32 district. As long as the use is carried on in the district in which it is characterized
33 as a use-by-right, the use is not subject to discretionary review by the city and may
34 be developed subject only to the conditions shown in the use table (section 21-
35 5200) and a development plan review, if applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (518) **6409(a) Facility** shall mean any telecommunication facility associated with
26 an eligible facilities request for a modification of an existing wireless tower or base
27 station that does not substantially change the physical dimensions of such tower
28 or base station pursuant to section 6409(a) of the Spectrum Act, as that section is
29 interpreted, applied, or revised in accordance with federal law.

30 *Section amended by Ord. 1785, June 2010*

31 *Section amended by Ord. 1854, April 2011*

32 *Section amended by Ord. 1887, July 2012*

33 *Section amended by Ord. 1897, July 2012*

34 *Section amended by Ord. 1891, August 2012*

35 *Section amended by Ord. 1948, April 2013*

36 *Section amended by Ord. 1992, March 2014*

37 *Section amended by Ord. 2020, February 2015*

38 *Section amended by Ord. 2048, June 2015*

39 *Section amended by Ord. 2068, January 2016*

40 *Section amended by Ord. 2078, April 2016*

- 1 *Section amended by Ord. 2158, December 2018*
- 2 *Section amended by Ord. 2186, December 2018*
- 3 *Section amended by Ord. 2190, December 2018*
- 4 *Section amended by Ord. 2203, May 2019*

1 EXHIBIT I TO ORDINANCE 2266

2 **BEST MANAGEMENT PRACTICES FOR NEW WELL SITES IN COMMERCE CITY**
3 **("BMP Document")**

4 **A. Introduction.**

- 5 1. This BMP Document, and each Best Management Practice (each, a "BMP"), are enacted by the City
6 Council of the City of Commerce City ("City") pursuant to the authority established in Section 21-3235
7 of the City's Land Development Code ("LDC") and any enabling and amending ordinance and shall be
8 enforced as set forth in the LDC, such ordinances, and the Commerce City Revised Municipal Code
9 ("Code"). This BMP Document and each BMP is reasonable and necessary to achieve the purposes stated
10 herein.
- 11 2. This BMP Document, and each BMP, is enacted to protect public health, safety, and welfare and the
12 environment by regulating specific areas of oil and gas operations within the City. These BMPs establish
13 minimum standards and may be exceeded voluntarily or as determined by the City in the processing of
14 an Oil and Gas Permit, depending on the nature of the proposed Operations and location.
- 15 3. Where used in this BMP Document, the term "practicable" shall mean, in the Director's opinion, that: (a)
16 there is no technology reasonably available to conduct the proposed Operations in compliance with the
17 BMP and waiver of the provision will not have a significant adverse effect on public health, safety, welfare,
18 or the environment; (b) an alternative approach not contemplated by the BMP is demonstrated to provide
19 a level of protection of public health, safety, welfare, and the environment that would be at least equivalent
20 to the BMP; or (c) application of the BMP would create an undue hardship because of unique physical
21 circumstances or conditions existing on or near the site of the Oil and Gas Facility, which may include
22 without limitation topographical conditions, shape or dimension of the site, or inadequate public
23 infrastructure, provided adequate protection of public health, safety, welfare, and the environment will be
24 ensured through other means. Except where the term "practicable" is used, modifications of these BMPs
25 shall not be permitted.
- 26 4. All terms used herein shall have the meaning set forth in the LDC, the Code, unless a different definition
27 is stated in this document; otherwise, terms and abbreviations shall have their generally-accepted meaning
28 as determined by reference to industry and regulatory standards.
- 29 5. Each BMP is an integral part of this BMP Document and the City's regulations of oil and gas development.
30 Notwithstanding the foregoing, if any BMP or a part thereof (or any application thereof) is found to be
31 invalid by a court, such invalidity shall not affect the remaining parts of the BMP or this BMP Document
32 which can be given effect without the invalid portion or application, provided such remaining portions or
33 applications are not determining by the court to be inoperable. To this end, BMPs are declared to be
34 severable.

35 **B. Summary of Revisions. [Reserved]**

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

1. Minimization of Emissions.

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

- 1 n. Operator shall reduce emissions from oil and gas pipeline maintenance activities such as pigging or
2 blowdowns. Any maintenance activity involving the intentional venting of gas from a well tank,
3 compressor or pipeline, beyond routine pipeline maintenance activity and pigging, requires forty eight
4 (48) hour advance written notice to the City of such proposed venting. Such notice shall identify the
5 duration and nature of the venting event, a description as to why venting is necessary, a description of
6 what vapors will likely be vented, what steps will be taken to limit the duration of venting, and what
7 steps Operator proposes to undertake to minimize similar events in the future. If venting is required,
8 or if accidental venting occurs, Operator shall provide such notice to the City of such event as soon as
9 possible, but in no event longer than 24 hours from the beginning of the event, including without
10 limitation the information listed above, an explanation as to the cause, and how the event will be
11 avoided in the future; notices shall be supplemented as additional information becomes available.
- 12 o. Capture of Produced Gas from Wells. Operator shall eliminate flaring, unless necessary to protect
13 health, safety and general welfare. . Gas produced during normal production shall be captured, to the
14 maximum extent practicable, and not flared or vented, except in situations where flaring or venting is
15 required to ensure that associated natural gas can be safely disposed of in emergency shutdown
16 situations.
- 17 p. Operator shall comply with dust suppression techniques in this BMP Document.
- 18 q. Operator shall consolidate product treatment and storage facilities within a Well Site.
- 19 r. Operator shall centralize compression facilities within a Well Site.
- 20 s. Operator shall use telemetric control and monitoring systems, including surveillance monitors, to
21 detect when pilot lights on control devices are extinguished.
- 22 t. Operator shall comply with all CDPHE rules and regulations, including air permits, if any, and all
23 OSHA work practice requirements with respect to benzene.
- 24 u. Operator shall participate in Natural Gas STAR program or other equivalent voluntary programs to
25 encourage innovation in pollution control at each Well Site.
- 26 v. Operator shall use pressure-suitable separator and vapor recovery unit (VRU) where applicable.
- 27 w. Operator shall construct pipeline infrastructure prior to the Production Phase.
- 28 x. For hydraulic fracturing pumps, Operator shall use Tier 4 or better engines.

29 *2. Leak Detection and Repair.*

- 30 a. Operator shall develop and maintain an acceptable leak detection and repair (“LDAR”) program as
31 required by CDPHE using modern leak detection technologies such as infrared (“IR”) cameras for
32 equipment used at a Well Site.
- 33 b. At least once per year, the Operator shall notify the City ten (10) business days prior to an LDAR
34 inspection of its facilities to provide the City the opportunity to observe the inspection.
- 35 c. For a five (5) year period beginning with the start of the Production Phase per well location at the each
36 Well Site, Operator shall conduct quarterly IR camera monitoring of all equipment at each Well Site.

- d. Thereafter, Operator shall conduct IR camera monitoring at least twice annually until all the wells on the Well Site are plugged and abandoned.
- e. Except when a circumstance would necessitate an immediate repair, Operator must repair leaks as soon as possible. If more than 48-hours repair time is needed after a leak is discovered, an explanation of why more time is required must be submitted to the City.
- f. Operator shall conduct continuous pressure monitoring to detect leaks.

3. Ozone Air Quality Action Days.

- a. On Air Quality Action Day advisories posted by the CDPHE for the Front Range Area, the Operator shall implement CDPHE-suggested air emission reduction measures, including the following, for the duration of an Air Quality Action Day advisory:
 - i. Minimize vehicle and engine idling;
 - ii. Reduce truck traffic and worker traffic;
 - iii. Delay vehicle refueling;
 - iv. Suspend or delay use of fossil fuel powered ancillary equipment; and
 - v. Postpone construction activities, if practicable.
- b. Within 30 days following the conclusion of each annual Air Quality Action Day season, Operator must submit a report to the City that details which measures it implemented during any Action Day advisories.

4. Electric Equipment.

- a. All permanent production equipment, such as compressors, motors and artificial lift equipment, shall utilize electric line power to mitigate noise and to reduce emissions.
- b. All drilling rigs capable of drilling to Total Depth (TD) on a well shall be required to utilize electric line power unless the Director waives this BMP in writing for a specific location or for any well not located within 2000' of a Residential Building Unit or not within 2000' of a High Occupancy Structure.
- c. At any location where Operator is not required by this BMP to utilize line power for drilling, Operator will utilize line power if available in sufficient quantity from the utility provider.
- d. At any location where line power is not used for drilling, Operator shall provide to City at City's request the source(s) used for power.
- e. Operator shall minimize use of diesel generators for temporary power, including the use of liquified or compressed natural gas for power generation to further reduce emissions and noise.

5. Exhaust. The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the nearest occupied building.

- 1 6. Flares and Combustion Devices. To the extent flares, thermal oxidizers, or combustion devices are
2 utilized, all such flares shall be designed and operated as follows:
- 3 a. Flares shall be fired with natural gas and designed to operate with a 98% of higher hydrocarbon
4 destruction efficiency.
- 5 b. Flares shall be designed and operated in a manner that will ensure no visible emissions during normal
6 operation. Visible emissions means observations of smoke for any period or periods of duration greater
7 than or equal to one (1) minute in any fifteen (15) minute period during normal operation, pursuant to
8 EPA Method 22. Visible emissions do not include radiant energy or water vapor.
- 9 c. Flare shall be operated with a flame present at all times when emissions may be vented to it, or shall
10 utilize another mechanism that does not allow uncontrolled emissions.
- 11 d. All combustion devices must be equipped with an operating auto-igniter.
- 12 7. Fugitive Dust. Operator shall comply with the following:
- 13 a. Silica dust must be contained to the maximum extent practicable during the hydraulic fracturing
14 process.
- 15 b. Dust associated with on-site activities and traffic on access roads shall be minimized throughout
16 construction, drilling and operational activities such that there are no visible dust emissions from
17 access roads or any Well Site to the extent practical given wind conditions.
- 18 c. No untreated produced water or other process fluids shall be used for dust suppression.
- 19 d. The Operator will not create dust or conduct dust suppression activities within 300' of the ordinary
20 high water mark of any waterbody, unless the dust suppressant is water.
- 21 e. Material Safety Data Sheets (MSDS) for any chemical-based dust suppressant, other than magnesium
22 chloride, shall be submitted to the City prior to use.
- 23 f. If a resident of a Residential Building Unit within 2000' of a Well Site complains of dust (either directly
24 to the Operator, to the COGCC, or to the City) Operator shall determine whether the dust is caused by
25 Operator's Operations. Operator shall report its conclusions, including the factual basis for the
26 conclusions, to the City and the complainant. If the dust is caused by Operator's Operations, Operator
27 shall resolve the dust concern to the maximum extent practicable within 24 hours.
- 28 8. Odor Containment.
- 29 a. Operator shall control and prevent odors from Operations from affecting adjacent properties and shall
30 proactively address and, to the extent possible, resolve complaints filed by impacted members of the
31 community.
- 32 b. Operator shall use a filtration system or additives to the drilling and fracturing fluids to minimize
33 odors.
- 34 c. Operator shall not use fragrance to mask odors.
- 35 d. Operator shall implement one or more of the following measures as necessary:

- i. Running mud through a cooler to reduce odor;
 - ii. Wiping down the drill pipe each time that the drilling operation “trips” out of the hole;
 - iii. Increase additive concentration;
 - iv. Operator will employ the use of drilling fluid with low to negligible aromatic content during drilling operations after surface casing is set for the protection of fresh water aquifers;
 - v. Operator will haul drill cuttings off on a daily basis; and
 - vi. Utilizing an electric drilling rig, where practicable.
- e. If a resident of a Residential Building Unit within 2000’ of a Well Site complains of odor (either directly to the Operator, to the COGCC, or to the City) Operator shall determine whether the odor is caused by Operator's Operations. Operator shall report its conclusions, including the factual basis for the conclusions, to the City and the complainant. If the odor is caused by Operator's Operations, Operator shall resolve the odor concern to the maximum extent practicable within 24 hours.

9. Reduced Emission Completions (Green Completions).

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

10. Annual Report.

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

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

1. *Chemical Disclosure.*

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

2. *Chemical Storage & Prohibitions.*

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

TABLE 1

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

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

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

4. Containment Berms.

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

- b. All berms and containment devices shall be inspected quarterly by Operator and maintained in good condition.
- c. Secondary containment, such as duck ponds or lined earthen berms for temporary tanks, shall be used.
- d. Secondary containment shall be constructed with a synthetic or engineered liner that contains all primary containment vessels and is mechanically connected to the steel ring to prevent leakage.
- e. No potential ignition sources shall be installed inside the secondary containment area unless the containment area encloses a fired vessel or such sources are rated in accordance with industry codes and standards.
- f. For locations within 500' and up-gradient of a surface water body, tertiary containment, such as an earthen berm, is required around respective production facilities.
5. Spill Response Kits. Operator shall make available at each Well Site, or require to be carried by field staff or contractors, Spill Response Kits capable of mitigating small to mid-size spills (e.g., 5 to 50 gallons).
6. Maintenance of Machinery.
- a. Operator shall not conduct vehicle maintenance at any Well Site.
- b. Operator shall not conduct routine field maintenance of mobile machinery within 300' of any water body as defined by LDC.
- c. All fueling must occur over impervious material.
7. Spills.
- a. Operator shall notify the City and South Adams County Water and Sanitation District ("SACWSD") of spills at any Well Site that has a reportable spill quantity under any law.
- b. Operator shall provide the City with a copy of any self-reporting submissions that Operator provides to the COGCC due to any spills at any Well Site.
8. Stormwater. All Operations shall comply and conform to the City's stormwater control regulations.
9. Water Quality Monitoring Plan.
- a. Operations shall not cause degradation to surface or ground water within the City or to wetlands within the City.
- b. Any approved variance to COGCC rules and regulations relating to the same matters shall be reported to the City and shall modify these requirements.
- c. Using records of the Colorado Division of Water Resources, Operator must implement a water quality monitoring plan that includes the following:
- i. Operator must obtain initial baseline samples and subsequent monitoring samples from all available potable water sources within a one-half (1/2) mile radius of the Well Sites. The Operator will notify the City of any private landowners who do not consent to such testing. Potable water

sources include registered water wells or permitted or adjudicated springs. Where a potable water source is privately owned and the owner refuses to allow Operator access to that source, the Operator shall be exempt from collecting samples from that water source.

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

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

TABLE 2

<u>GENERAL WATER QUALITY</u>
Alkalinity, Conductivity & TDS, pH, Dissolved Organic Carbon (or Total Organic Carbon), Bacteria, Perfluorinated Compounds (PFCs), and Hydrogen Sulfide
<u>MAJOR IONS</u>
Bromide, Chloride, Fluoride, Magnesium, Potassium, Sodium, Sulfate, and Nitrate + Nitrite as N
<u>METALS</u>
Arsenic, Barium, Boron, Chromium, Copper, Iron, Lead, Manganese, Selenium, Strontium, Mercury, Uranium, and Radium
<u>DISSOLVED GASES and VOLATILE ORGANIC COMPOUNDS</u>
Methane, Ethane, Propane, BTEX as Benzene, Toluene, Ethylbenzene and Xylenes, Total Petroleum, and Hydrocarbons (TPH)
<u>OTHER</u>
Water Level, Stable isotopes of water (Oxygen, Hydrogen, Carbon), Phosphorus.

10. Wastewater and Waste Management.

- a. Operator shall implement a Waste Management Plan to the City that complies with the following:
 - i. All fluids shall be contained and there shall be no discharge of fluids.
 - ii. Wastewater shall be stored in tanks, transported by tanker trucks and/or pipelines, and disposed of at licensed disposal or recycling sites in accordance with applicable law.

- iii. Operator shall not dispose of any wastewater within the City.
- iv. All other waste shall be disposed of in accordance with state regulations.
- v. The plan shall incorporate secondary containment and stormwater measures consistent with this BMP Document.
- vi. No land treatment of oil impacted or contaminated drill cuttings are permitted.
- b. A copy of the Operator's Spill Prevention, Control, and Countermeasure Plan (SPCC) describing spill prevention and mitigation practices will be given to the City.

11. Well Integrity.

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

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

13. Water Supply.

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

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

1. Use of Pipelines.

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

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

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

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

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

6. Flowlines.

- a. Any newly constructed or substantially modified flowlines on any Well Site shall be constructed and operated under the provisions of the COGCC 1100 Series Flowline Regulations and any future COGCC Flowline Regulations, as either may be amended, and any applicable surface use agreements with the surface owners.
- b. Operator shall pressure test all flowlines following their construction, including those rated at less than 15 PSI.
- c. Operator will provide to the City all records required to be submitted to state agencies related to inspections, pressure testing, accidents and other safety incidents related to flowlines at any Well Site and, upon specific request by the City, Operator will provide to the City any other records submitted to State agencies related to flowlines at the Well Sites.
- d. All new flowlines and pipelines shall have the legal description of the location recorded with the Adams County Clerk and Recorder within thirty (30) days of completion of construction.
- e. Abandonment of any recorded flowlines shall be recorded with the Adams County Clerk and Recorder within thirty (30) days after abandonment.
- f. Operator will provide the City with GIS files for the location of flowlines. Flowline data provided to the city shall only be made publicly available at a resolution greater than 1:6,000.

1 g. Flowlines will be removed when last well utilizing the lines are plugged and abandoned unless this
2 requirement is waived in writing by the Director.

3 7. General Maintenance. Operator shall operate and maintain all equipment pursuant to manufacturer
4 specifications consistent with technological limitations and reasonable and customary maintenance
5 practices.

6 8. Plugged and Decommissioned Well Testing.

7 a. Before and after the hydraulic fracturing of any new well, Operator shall assess the integrity of all oil
8 and gas and disposal wells (Active, Dry & Abandoned, Injecting, Plugged & Abandoned, Producing,
9 Shut-In, and Temporarily Abandoned) where the surface location of such wells are within the City and
10 within 1500' of the completion interval of the projected track of the borehole of the proposed new
11 well, based upon examination of COGCC and other publicly available records. This shall include
12 assessment of leaking gas, oil, or water to the ground surface or into subsurface water resources, taking
13 into account plugging and cementing procedures described in any recompletion or plugged and
14 abandoned report filed with the COGCC. The analysis shall be provided to the City.

15 b. Based on the results of the assessment, the City may request Operator to plug and abandon, in
16 compliance with all COGCC rules in relation to abandonment and plugging, any of the Operator's
17 existing oil and gas or disposal wells or such wells under the Operator's ownership, control or
18 authority. Additionally, the City may request Operator to attempt to negotiate the plugging and
19 abandonment of other wells of concern, that are not owned by the Operator, but that are within 1500'
20 of the completion interval of the projected track of the borehole of the proposed new well. If wells of
21 concern are not plugged and abandoned, Operator must supply a mitigation plan and a follow-up
22 monitoring plan that will be used to prevent or detect any communication between the well of concern
23 and the proposed wells.

24 c. Operator shall provide notification to the City and applicable fire district not less than fourteen (14)
25 days prior to commencing plugging operations. Operator shall notify the City and COGCC of the
26 results of plugging and cementing procedures.

27 d. For each well abandoned by Operator within the City for which access and permission to test is
28 granted, a soil gas survey to test the soil within a 10' radius of the well shall be completed prior to
29 production from a proposed new well and again one (1) year after production has commenced on the
30 new well. Every well abandoned by Operator shall also be subject to the testing one (1) year after
31 production has commenced on a new well. Operator shall provide the results of the soil gas survey to
32 the City and the COGCC within one (1) month of conducting the survey or advise the City that access
33 to the previously abandoned wells could not be obtained from the surface owner.

34 9. Surface Safety Valve and Automatic Safety Protective Systems.

35 a. Operator will install an automated safety system, governed by safety devices and a programmable
36 logic computer, at each Well Site.

37 b. Each system shall include a Surface Safety Valve ("SSV") or wellhead master control valve installed
38 for each new well before the commencement of the Production Phase connected to the production
39 tubing at the surface. The SSV or wellhead master control valve shall monitor multiple flowing
40 pressures and rates which have predetermined maximum and/or minimum threshold values
41 programmed and will remotely shut the well in should certain upset conditions be detected.

1 Additionally, the automated safety system shall provide the ability to remotely shut-in wells on
2 demand through operator remote intervention.

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

5 10. Flowback Best Management Practices

6 a. Before flowback, Operator shall:

- 7 i. Construct the production facility capable of remote emergency shut down consistent with this BMP
8 Document;
9 ii. Tie flowback equipment into combustors;
10 iii. Notify appropriate fire district at least twenty-four (24) hours before production flowback is
11 scheduled to begin for the first time on a well pad; and
12 iv. Conduct a pre-startup safety review (PSSR), which will review facility and equipment spacing
13 requirements and safety procedures.

14 b. During flowback, Operator shall:

- 15 i. Utilize gas monitors that are capable of detecting Lower Explosive Level and H2S, which emit an
16 audible tone linked to cell phones to notify people on and off location;
17 ii. Utilize automatic tank gauging to measure tank levels and have 24-hr manned operations;
18 iii. Send flowback gas to sales pipeline, when possible.

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

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

26 1. Visual Mitigation Methods. The City may require Operator to implement the following visual mitigation
27 methods may be required on a site-specific basis:

- 28 a. Use of low-profile tanks less than 16 ft. in height;
29 b. Use of equipment with reduced height and profiles;
30 c. Facility painting, vegetative or structural screening, land berming, and landscaping;
31 d. Earthen berms around the perimeter of fencing with turf grass or ground cover generally recognized
32 by landscape architects and horticulturalists for local area use for the purpose of general screening;

- e. Establishment and proper maintenance of ground cover, trees and shrubs for screening and aesthetic purposes;
- f. Designing an Oil and Gas Facility to utilize natural screens where possible; and
- g. Construction of fences for use with or instead of landscaping or berming;

2. Landscaping. Operator shall comply with the following:

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

3. Lighting.

- a. Exterior lighting shall be directed away from residential and other sensitive areas or shielded from said areas to eliminate glare. Light spillage beyond the perimeter of a Well Site should be minimized.
- b. All permanent lighting or lighting higher than a perimeter wall must be downward facing.
- c. All bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture.
- d. Prior to installation of permanent lighting on any Well Site, Operator shall submit to the City a Lighting Plan and the City shall communicate with Operator any modifications to the plan that it deems appropriate. Operator shall make such modifications as reasonably required by the City and as required by law.

- 1 e. The Lighting Plan shall indicate the location of all outdoor lighting on the site and any structures, and
2 include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures.
- 3 f. During the Drilling and Completion Phases, consistent with applicable law, Operator will construct a
4 minimum 32 ft.in height wall around as much of the perimeter of the well pads as operations allow to
5 reduce light escaping from the site, unless taller, shorter, or no walls are mutually agreed to by City
6 and Operator on a site-specific basis.
- 7 4. Artificial Lift. Artificial lift will not be accomplished through the use of traditional pump jacks.
8 Alternatives such as gas lift, linear rod pumps, or hydraulic pumping unit may be used, and are to be as
9 low profile as practicable with a maximum height of 30 ft. An alternative artificial lift system may be
10 used if it is less visible or auditory impacts and is agreed to by both parties.
- 11 5. Trailers.
- 12 a. A construction trailer(s) is permitted as an accessory use during active construction, drilling and well
13 completion or workover operations only.
- 14 b. Permanent residential trailers are prohibited at Well Sites.
- 15 c. Until ninety (90) days following the end of the Completion Phase on a Well Site, temporary residential
16 and/or security trailers are permitted, as needed for on-site operations, for exclusive use by the
17 Operator's personnel and the personnel of its subcontractors on a temporary basis.
- 18 6. Noise.
- 19 a. Operator shall use quiet completions technology for any well located within 2000' of a Residential
20 Building Unit or a High Occupancy Structure unless Operator obtains waivers from all affected
21 property owners within that distance.
- 22 b. Operator shall conduct a Baseline Noise Mitigation Study to ascertain baseline and expected
23 cumulative noise levels at each Well Site to demonstrate that noise is expected to be mitigated to the
24 extent practicable. A copy will be provided to the City. All baseline measurements considered for
25 compliance with this Section shall be taken by a third-party contractor using sound monitoring
26 industry standards and practices
- 27 c. The City may require Operator to implement additional noise mitigation if there is a Residential
28 Building Unit, Public Park, or High Occupancy Structure within 2000' of the Well Site and based on
29 any of the following additional site-specific characteristics:
- 30 i. Nature and proximity of adjacent development (design, location, use);
- 31 ii. Prevailing weather patterns, including wind directions;
- 32 iii. Type and intensity of the noise emitted; and
- 33 iv. Vegetative cover on or adjacent to the site or topography.
- 34 d. Additional noise mitigation measures may include:

- i. Continuous noise monitoring by a third party contractor, at expense of Operator, during construction, drilling, and completions, with instruments placed between the Oil and Gas Location and Residential Building Units within 2000'. Data shall be provided to the City.
- ii. The Operator shall address C scale noise/vibration through berming, capable sound walls, and other practices.
- iii. During the drilling and completion, the operator may be required to construct a perimeter wall and/or comparable measures to mitigate noise as appropriate on a case-by-case or modeled basis.
- iv. Additional mitigations must be taken by the Operator if C-scale noise levels are increased the larger of either 5db over ambient or above 65db at 25' from the nearest occupied building unit.
- v. Use of electric-powered motors and pumping systems.
- vi. Construction of buildings or other enclosures where Operations create noise and visual impacts that cannot otherwise be mitigated due to proximity, density or intensity of adjacent land use.

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

1. Outreach to Affected Residents.

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

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

2. Bi-Annual Updates to City.

- a. Operator biannually shall provide a formal written Progress Report update to the Director, to be shared publicly, as to the progress of Operations, including but not limited to:
 - i. Any reportable spills or reportable accidents at locations;
 - ii. Any notice of alleged violations from the City or COGCC; and
 - iii. A summary of complaints to the Operator and COGCC.

b. Updates shall begin at the beginning of construction and continue throughout drilling and completion operations and cease once the final well approved for a Well Site has been drilled and has been in production for one full year.

3. Complaint Response.

a. Operator shall maintain a dedicated phone line to receive complaints that is open 24 hours per day, 7 days a week. The phone number shall be posted at all Well Sites and provided to the City's LGD.

b. Operator shall document and review all complaints and provide the complainant with an initial response within twenty four (24) hours. Responses to complaints shall also be provided to the City's LGD and, if appropriate, state officials.

c. Any additional responses or corrective actions will be communicated to the complainant, landowner, City's LGD, and, if appropriate, state officials.

4. Risk Management. Operator shall create and implement a Risk Management Plan for Well Sites and Oil and Gas Facilities that are part of an Oil and Gas Permit. The plan shall include risk identification, responsibilities, assessment, response, planning mitigation and, methods of risk avoidance and control that implement techniques to prevent the accident/loss and reduce the impact after an accident/loss occurs. Operators shall periodically update and revise the plan, but at least every three years and after any incident.

a. Operator shall develop a risk identification in a risk table which will identify the particular site by name, describe the risk, identify any health, safety, or environmental impact, identify any impact to Operator's development schedule, provide a description of the risk area and associated factors, and whether it is an unmitigated or mitigated risk.

b. Operator shall assign persons or entities under its control or direction to have responsibility for the managing risk identified and plans support the risk mitigation. Such assignment shall not limit the Operator's responsibility.

c. Operator shall identify any planned mitigation response (including emergency response, tactical response, and notifications) for certain identified risks.

d. Operator will implement a compliance and audit program. The Operator shall determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected. If Operator utilizes a self-reporting mechanism to any respective agency, that self-reporting mechanism will be described in the Risk Management Plan. If Operator self-reports, any findings included in the self-reporting to any other respective agency will be provided to the City.

e. City may retain outside consultants, at Operator's cost, to review Risk Management Plan and may require modifications to Risk Management Plan based on its review.

5. Incident and accident reporting.

a. Within twenty-four (24) of any reportable safety event, as defined by the COGCC in Rule 602(c), as may be amended, or any accident or natural event involving a fire, explosion or detonation requiring emergency services or completion of a COGCC Form 22, Operator shall submit a report to the City that includes the following, to the extent available: fuel source, location, proximity to residences and other occupied buildings, cause, duration, intensity, volume, specifics and degree of damage to

properties, if any beyond the Well Site, injuries to persons, emergency response, and remedial and preventative measures to be taken within a specified amount of time. Additional reporting shall be provided after the conclusion of the event, if the event lasts longer than twenty-four (24) hours.

b. The City may require Operator to conduct a root cause analysis of any reportable safety events or Grade 1 gas leaks, each as defined by the COGCC.

c. Any spill or release that is reportable to the COGCC shall be simultaneously reported to the City's LGD and the applicable fire district.

6. Signs and Markers. Operator shall mark each and every well in a conspicuous place, from the time of initial drilling until final abandonment, as follows:

a. General Sign Requirements.

i. No sign required under this BMP shall be installed at a height exceeding 6'.

ii. Operator shall maintain signs in a legible condition and shall replace damaged or vandalized signs within sixty (60) days.

b. Drilling and Recompletion Operations.

i. Operator shall provide directional signs, no less than three (3) and no more than six (6) sq. ft. in size, during all drilling and recompletion operations.

ii. Such signs shall be at locations sufficient to advise emergency crews where drilling or recompletion is taking place.

iii. Such sign locations shall include the first point of intersection of a public road and the rig access road and thereafter at each intersection of the rig access route, except where the route to the well is clearly obvious to uninformed third parties in any weather or condition.

iv. Such signs not needed to meet other obligations under these rules shall be removed as soon as practical after drilling and recompletion operations are complete.

c. Permanent Designations.

i. Oil and Gas Wells. Within sixty (60) days after the Completion Phase of an Oil and Gas Well, a permanent sign shall be located at both the wellhead and surface equipment (if not at the wellhead), which shall identify the Oil and Gas Well, the name and contact information of the Operator and the legal location, including the quarter section.

ii. Surface Equipment. Within sixty (60) days after the installation of a tank battery, a permanent sign shall be located at the tank battery. At the option of the Operator, or at the request of the City, the sign may be placed at the intersection of the lease access road with a public road nearest the tank battery, if the tank battery is readily apparent from such location. Such sign, which shall be no less than three (3) sq. ft. and no more than six (6) sq. ft., shall provide: the name of the Operator; a phone number at which the Operator may be reached at all times; a phone number for local emergency services; the lease name or Oil and Gas Well name(s) associated with the tank battery; the public road used to access the site; and the legal location, including the quarter section.

1 iii. Tanks and Containers. All tanks with a capacity of ten (10) barrels or greater shall be labeled or
2 posted with the following information:

3 a) Name of Operator;

4 b) Operator's emergency contact telephone number;

5 c) Tank capacity;

6 d) Tank contents; and

7 e) National Fire Protection Association (NFPA) Label.

8 7. Emergency Response Plan.

9 a. Operator shall complete and implement all components of a detailed Emergency Response Plan
10 subject to the approval of the City's emergency manager and the applicable fire district must approve
11 of the Emergency Response Plan ("Plan") before the Drilling Phase commences.

12 b. Operator shall review the plan annually and file any updates with the City's Emergency Manager and
13 the applicable fire district. If no updates to the Plan are made then Operator shall provide notice of
14 "No Change."

15 c. The Plan shall include:

16 i. Name, address and phone number, including twenty-four-hour numbers for at least two (2) persons
17 responsible for field operations as well as the contact information for any subcontractor of
18 Operator engaged for well-control emergencies;

19 ii. A process by which the Operator notifies surrounding neighbors to inform them about the on-site
20 operations and emergencies and to provide sufficient contact information for surrounding
21 neighbors to communicate with the Operator;

22 iii. An as-built facilities map in a format suitable for input into the City's GIS system depicting the
23 locations and type of above and below ground facilities, including sizes and depths below grade
24 of all oil and gas flow lines and associated equipment, isolation valves, surface operations and
25 their functions, as well as transportation routes to and from exploration and development sites, for
26 response and management purposes. The information concerning flowlines and isolation valves
27 shall be marked and treated as confidential and shall only be disclosed in the event of an emergency
28 or to emergency responders or for the training of emergency responders;

29 iv. Detailed information addressing each reasonable potential emergency that may be associated with
30 the operation, including without limitation: explosions; fires; gas; oil or water pipeline leaks or
31 ruptures; hydrogen sulfide or other toxic gas emissions; hazardous material vehicle accidents or
32 spills; and natural disasters;

33 v. An emergency evacuation plan for the Well Site and any person within one-half (1/2) mile of the
34 Well Site.

- vi. A provision that any spill outside of the containment area, that has the potential to leave the facility or to threaten waters of the state, or as required by the City-approved plan shall be reported to the local dispatch and the COGCC Director in accordance with COGCC regulations;
- vii. Detailed information identifying access, and health care facilities anticipated to be used;
- viii. A project-specific plan for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas;
- ix. A provision obligating the Operator to reimburse the appropriate agencies for their expenses resulting from the Operator's operations; and
- x. A statement and detailed information indicating that the Operator has adequate personnel, supplies, and training to implement the plan immediately at all times during construction and operations.
- d. The Operator shall have current Material Safety Data Sheets (MSDS) for all chemicals used or stored on a Well Site. The MSDS sheets shall be provided immediately upon request to City officials, a public safety officer, or a health professional as required by COGCC Rule 205.
- e. All training associated with the Plan shall be coordinated with the City and the fire districts within the City.
- f. Operator shall provide the City with its shutdown protocols and promptly notify the City of any shut downs that would have an impact to any area beyond the confines of the Well Site.

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

- 1. The Operator shall maintain or cause to be maintained, with insurers authorized by the state of Colorado and carrying a financial strength rating from A.M. Best of no less than A- VII (or a similar rating from an equivalent recognized ratings agency), at a minimum, the following types of insurance with limits no less than the amounts indicated:
 - a. Commercial General Liability insurance on an occurrence based form including coverage for bodily injury or property damage for operations and products and completed operations with limits of not less than \$1,000,000 each and every occurrence.
 - b. Automobile Liability insurance with limits of not less than \$1,000,000 each and every occurrence.
 - c. Workers' Compensation insurance- Statutory Workers' Compensation Coverage for the employee's normal State of employment/hire. Including Employer's Liability insurance - with limits of not less than \$1,000,000 Each Accident, Disease - Each Employee, Disease - Policy Limit.
 - d. Control of Well/Operators Extra Expense insurance - with limits of not less than 10,000,000 covering the cost of controlling a well that is out of control or experiences a blowout, re-drilling or restoration

1 expenses, seepage and pollution damage resulting from an out of control well or blowout as first party
2 recovery for the operator and related expenses, including, but not limited to, loss of equipment and
3 evacuation of residents.

4 e. Umbrella/Excess Liability - in excess of General Liability, Employer's Liability, and Automobile
5 Liability with limits no less than \$25,000,000 per occurrence; provided, however, that for so long as
6 the Construction Phase, Drilling Phase or Completions Phase is ongoing at any Well Site under a
7 permit, Operator will maintain such insurance with limits no less than \$100,000,000 per occurrence.

8 f. Environmental Liability/Pollution Legal Liability insurance- with limits of not less than \$5,000,000
9 per pollution incident, with coverage being required beginning with the date that is eight (8) years
10 from the date of first production from each new well ("Required Date"). Coverage must include
11 gradual pollution events. This insurance may be on a claims-made basis, however the retroactive date
12 must precede the Required Date in order to cover all wells.

13 2. Operator shall waive and cause its insurers under the above policies to waive for the benefit of the City
14 any right of recovery or subrogation which the insurer may have or acquire against the City or any of its
15 affiliates, or its or their employees, officers or directors for payments made or to be made under such
16 policies.

17 3. Operator shall add the City and its elected and appointed officials and employees as Additional Insureds
18 under general liability (including operations and completed operations), auto liability, and umbrella
19 liability.

20 4. Operator shall ensure that each of the policies are endorsed to provide that they are primary without right
21 of contribution from the City or any insurance or self-insurance otherwise maintained by the City, and not
22 in excess of any insurance issued to the City.

23 5. Operator shall ensure that each of the policies above (excluding workers' compensation and OCC/COW)
24 are endorsed to state that the inclusion of more than one insured under such insurance policy shall not
25 operate to impair the rights of one insured against another insured and that the coverage afforded by each
26 insurance policy shall apply as though a separate policy had been issued to each insured.

27 6. All policies shall be endorsed such that they cannot be canceled or non-renewed without at least 30 days'
28 advanced written notice to Operator and the City, evidenced by return receipt via United States mail,
29 except when such policy is being canceled for nonpayment of premium, in which case ten (10) days
30 advance written notice is required. Language relating to cancellation requirements stating that the
31 insurer's notice obligation is limited to "endeavor to" is not acceptable.

32 7. Operator shall, prior to permit issuance, deliver Certificates of Insurance reasonably acceptable to the City
33 confirming all required minimum insurance is in full force and effect.

34 8. Deductibles or retentions shall be the responsibility of Operator. Deductibles or retentions must be listed
35 on the Certificate of Insurance required herein and are subject to the reasonable approval of the City.

36 9. Operator shall require any of its subcontractors to carry the types of coverage and in the minimum amounts
37 in accordance with the requirements set out in Section 1.A, 1.B. and 1.C. Operator shall be responsible
38 for any damage or loss suffered by the City as a result of non-compliance by Operator or any subcontractor
39 with this section.

10. If Operator's coverage lapses, is cancelled or otherwise not in force, the City reserves the right to obtain insurance required herein and charge all costs and associated expenses to Operator, which shall become due and payable immediately.
11. If that the coverage required is not widely available to operators in the Denver-Julesburg Basin, in lieu of the coverage required, Operator and the City may establish a joint escrow account that shall be used to satisfy any obligations of Operator that would have otherwise have been covered by the coverage required. Operator shall fund such account with an amount equal to \$5,000.00 per new well then-producing (the "Per Well Amount"). The aggregate amount to be placed into the account shall be re-visited on an annual basis based on the then-number of producing new wells. The Per Well Amount shall be adjusted each year by the increase or decrease in the Consumer Price Index issued by the United States Bureau of Labor Statistics for the Denver – Boulder metropolitan area. Any interest accrued in the account shall be credited towards the Operator's required contributions to the account and any excess amounts in the account above and beyond the amount required by this provision shall be promptly returned and released to Operator.
- I. **Reclamation.** Operator shall comply with these reclamation standards to: protect human health and safety; prevent injury to plant and animal life; prevent damage to property; and prevent unreasonable interference with the public welfare. These standards are established to restore the City's resources and to improve the quality of life and the general welfare in the City.
1. *Interim Reclamation Plan.* Operator shall implement an interim reclamation plan including:
- a. *Removal of Debris.* All construction-related debris shall be removed from the site for proper disposal in a timely manner. The site shall be maintained free of debris and excess materials at all times during operation. Operator shall not burn or bury debris at any time on any Well Site.
- b. *Removal of Equipment.* All equipment used for drilling, re-completion and maintenance of the facility shall be removed from the site within thirty (30) days of completion of the work, weather condition permitting, unless otherwise agreed to by the surface owner. Permanent storage of removable equipment on any Well Site is prohibited.
2. *Final Reclamation Plan.* Operator must submit an oil and gas Well Site Final Reclamation Plan and reclaim a Well Site not later than six (6) months after plugging and abandoning the last well at such Well Site, weather and planting season permitting. In addition to any COGCC reclamation requirements, Operator shall:
- a. Remove all pipelines and flowlines after one (1) year of non-use when last well utilizing lines are plugged and abandoned unless this requirement is waived in writing by the Director; and
- b. Reclaim and revegetate, to the original state prior to Operations, all temporary access roads associated with Operations at a Well Site within a reasonable amount of time, taking into account planting seasons, or as directed by the landowner in a Surface Use Agreement and subject to applicable COGCC variances.
3. *Marking and recording of plugged and abandoned wells.* Operator must comply with the following:
- a. The COGCC well abandonment report must be accurately completed and filed with the City and COGCC.
- b. The well location must be recorded with the Clerk and Recorder of the applicable county.

- c. Operator shall permanently mark the well by a brass plaque set in concrete, similar to a permanent bench mark, to monument the plugged and abandoned well's existence and location. Such plaque shall contain the information required by the COGCC to properly identify the well. Operator may mark the well by an alternative means if pre-approved by the director.

J. Transportation and Circulation.

1. General.

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

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

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

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

4. Private Access Roads.

- a. Access points to public roads must be located, improved and maintained to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.
- b. Permanent access roads must be improved a minimum distance of 200' on the access road from the point of connection to a public road.
- c. All access roads must be in conformance with the City's standards and specifications. A geotechnical report and pavement design will be submitted to the City for approval.

- 1 d. Access roads must be improved as a hard surface (concrete or asphalt) for the first 100' from the public
2 road, unless public road is not already a hard surface, in which case, Operator shall meet the current
3 standards of the public road.
- 4 e. Access roads must be improved with a crushed surface (rock, concrete, or asphalt) for the next 100' in
5 the appropriate depth to support the weight load requirements of the vehicles accessing the Well Site.
- 6 f. If an access road intersects with a pedestrian trail or walk, the Operator shall pave the access road as
7 a hard surface (concrete or asphalt) a distance of 100' either side of the trail or walk, unless the trail
8 or walk is not already a hard surface, in which case, Operator shall meet the current standards of the
9 trail or walk. If necessary, Operator shall replace the trail or walk to address the weight load
10 requirements of the vehicles accessing the well and production facilities.
- 11 5. Mud Tracking.
- 12 a. Operator shall take all practicable measures to ensure that vehicles do not track mud or debris onto
13 public streets.
- 14 b. Operator shall immediately clean any mud or debris deposited on public streets that is more than *de*
15 *minimis*.
- 16 c. The Director of Public Works or designee may authorize a delay in the cleaning of mud or debris from
17 public streets if Operator submits a plan for removal that is approved.
- 18 6. Chains. Traction chains from heavy equipment shall be removed before entering a public street.

19 **[END OF BMP DOCUMENT]**