

INTRODUCED BY: \_\_\_\_\_

AN ORDINANCE AMENDING SECTIONS 18-450 AND 18-583 OF THE THORNTON CITY CODE REGARDING DEVELOPMENT STANDARDS AND PROXIMITY REQUIREMENTS FOR OIL AND GAS OPERATIONS; REPEALING AND REENACTING ARTICLE X OF CHAPTER 18 OF THE THORNTON CITY CODE PERTAINING TO OIL AND GAS REGULATIONS; AND AMENDING SECTION 18-901 OF THE THORNTON CITY CODE REGARDING DEFINITIONS.

WHEREAS, Chapter 18 of the Thornton City Code (“Code”), titled as the Development Code, is a compilation of the requirements, standards and performance expectations for land uses and land development allowed within the City of Thornton; and

WHEREAS, the intent of the Development Code is to promote the health, safety and general welfare of the public, and to implement the goals, objectives, and policies of the City’s Comprehensive Plan in accordance with the visions and desires of the community; and

WHEREAS, the current Development Code was recodified in 2011 and includes Article X, Oil and Gas Facility Regulations which establishes specific regulations for Oil and Gas Operations within the City and establishes uses for such development in specified zoning districts within the City; and

WHEREAS, since the 2011 recodification of the Code, the Colorado Oil and Gas Conservation Commission (“COGCC”) formed by the Oil and Gas Conservation Act (“Act”) has promulgated updated rules (“COGCC Rules”) associated with Oil and Gas Operations; and

WHEREAS, the Colorado Department of Public Health and Environment (“CDPHE”) has updated specific regulations associated with the operation of Oil and Gas facilities; and

WHEREAS, there has been a significant increase in Oil and Gas Operations in the City necessitating updates to the City’s Oil and Gas Regulations and related provisions to enhance the City’s ability to address impacts of such development; and

WHEREAS, it is the intent of the City Council to enact these Regulations consistent with the requirements of the Act and the COGCC Rules and thereby allow the responsible development of oil and gas resources in the City while protecting the public health, safety, welfare of its residents and businesses, and the environment; and

WHEREAS, it is further the City Council’s intent, by enacting these Regulations to mitigate the adverse impacts associated with Oil and Gas Operations to protect the health

and wellbeing of residents pursuant to the City's land use authority and general police powers.

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

1. The introduction to Section 18-450, Development standards by zoning district chart, of the Thornton City Code is hereby amended by the addition of the words underlined to read as follows:

**Sec. 18-450. Development standards by zoning district chart.**

This chart identifies the development standards for the listed zoning districts. Additional regulations, such as design and landscaping requirements, are referenced elsewhere in this Chapter. In addition to the development standards for each zoning district and other relevant provisions of the Thornton City Code, every building requiring a Certificate of Occupancy issued in accordance with the City's Building Code shall be setback up to 1,000 feet from an existing Oil and Gas Operation whether such building is located in the City or in an unincorporated area.

2. Subsection (c) of Section 18-583, Treatment of land unsuitable for development, of the Thornton City Code is hereby amended by the deletion of the words stricken and the addition of the words underlined to read as follows:

**Sec. 18-583. General requirements.**

(c) *Treatment of land unsuitable for development.*

(2) Land unsuitable for development shall include areas:

(e) Where well sites or production sites are located or proposed to be located. The restricted lot or tract shall be of an adequate size to allow the following minimum separation requirements, with the setbacks measured in accordance with the process described in Section 18-867:

1. Up to 1000 but no less than 750 feet between the well site or production site and any nearest existing building permitted for occupancy, and;
2. Up to 750 but no less than 500 feet from proposed platted residential lots or parks, sports fields and playgrounds or other designated outside activity areas; and

3. 500 feet from any surface water body, domestic or commercial water well, or irrigation well. The term “water body”, as used in this Section shall not include agricultural ditches or canals, or any type of stream or creek.
- f. The size required for the restricted lot or tract shall be determined at the time of initial subdivision approval and the size of the lot or tract cannot be changed by subdivision amendment in a manner that obviates the separation restrictions on the lot or tract.
- g. Where plugged and abandoned Wells are located or proposed to be located outside of right-of-way. The restricted tract shall be not less than 50 feet in width and 100 feet in length.
  1. The plugged or capped and abandoned well shall be located generally in the center of the restricted tract.
  2. A well maintenance and workover easement, granted to the City, shall be provided over the entire restricted tract;
  3. An access easement for ingress and egress to the restricted tract of a width of not less than 20 feet shall be granted to the City unless access is available directly from the right-of-way.
  4. The plugged and abandoned well shall be permanently marked by a brass plaque set in concrete similar to a permanent bench mark to monument its existence and location. The plaque shall contain any information required on a dry hole marker by the Colorado Oil and Gas Conservation Commission and the City.

3. Article X, Oil and Gas Facility Regulations of Chapter 18 of the Thornton City Code is hereby repealed and reenacted to read as follows:

## **ARTICLE X OIL AND GAS FACILITY REGULATIONS.**

### **DIVISION 1. GENERALLY**

#### **Sec. 18-860. Purpose.**

The City Council finds and declares that:

- (a) The City, pursuant to its power to protect and promote the health, safety, environment, and general welfare of the residents and businesses of the City, is enacting and has the power to enforce regulations for oil and gas well sites, production sites, and related facilities (“Regulations”) as provided in this Article. It is the City’s intent by enacting these Regulations to accommodate the development of oil and gas resources within its corporate limits while mitigating potential adverse impacts and land use conflicts between such development and existing, as well as planned, land uses.
- (b) These Regulations are promulgated through the powers granted the City through the Colorado State Constitution, applicable state law, and are an exercise of the City’s land use and zoning authority and its police power.

**Sec. 18-861. Applicability.**

- (a) New Oil and Gas Operations located wholly or partially within the City and the expansion of existing Oil and Gas Operations within the City are subject to these Regulations.
- (b) Oil and Gas Operations within the City that are in existence on the effective date of reenactment of this Article, or Oil and Gas Operations that are in existence, but located within territory which thereafter is annexed to the City are not subject to these Regulations. Provided however, if any type of new development, that was not approved when an Oil and Gas Operation was authorized, is approved and is thereafter any part of the approved development project site is located within a 200 foot proximity of any operating well or a 350 foot proximity of any production facility located within the real property boundary line of any such pre-existing Oil and Gas Operation the following regulations shall apply to the pre-existing Oil and Gas Operation: a Lighting Plan pursuant to Section 18-865(b)(6)(b) and Section 18-870 a Weed Management Plan pursuant to Section 18-865(g)(i), the Noise Mitigation provisions in Section 18-869, the Fencing requirements in Section 18-873, and Signage pursuant to Section 18-874.
- (c) A Development Permit issued pursuant to these Regulations shall authorize the Operator, its agents, employees, subcontractors, and independent contractors, to perform the work reasonably necessary to conduct the activities specified by the Development Permit, subject

to all other applicable City regulations and the Code. Notwithstanding any such applicable Code provisions or regulations; the right to conduct an Oil and Gas Operation terminates if the operation of the well site or production site, including cessation of the drilling operation, is discontinued for a period of six months or more, other than by temporary abandonment or shut-in in conformance with COGCC Rules. Renewing Operations on a site after the six-month period shall require a new Development Permit.

- (d) Any renovation or repair of accessory equipment or pumping systems associated with an Oil and Gas Operation in existence on the effective date of these Regulations shall be permitted without a Development Permit, provided the work does not increase the degree of nonconformity or impact of the Oil and Gas Operation.
- (e) Any replacement of existing accessory equipment or any addition of accessory equipment shall comply with these Regulations and require a Minor Development Permit, pursuant to Section 18-49. The replacement or addition of individual tanks, treaters, or separators shall not require the remaining accessory equipment in a production site, an access road, or a well site, to conform to the Development Standards in these Regulations.
- (f) An Operator Agreement approved by the City may, by its terms, exempt the proposed Oil and Gas Operation from these Regulations.
- (g) Oil and Gas Operations to be located on any type of City-owned property are exempt from the process for obtaining a Development Permit in Division 2 of these Regulations; provided however, all such Oil and Gas Operations shall be required to enter into an Operator Agreement to obtain a Development Permit, which agreement will be as restrictive as the Development Standards in Division 3 of these Regulations.
- (h) Nothing in these Regulations shall be construed to limit other applicable provisions of the Code not in conflict with these Regulations. If there is a conflict between these Regulations and other regulations and standards in this Code, these Regulations shall govern.
- (i) Any references to days, within which any action is required to occur, such reference shall mean calendar days, unless otherwise specifically stated.

**Secs. 18-862-18-863. Reserved.**

**DIVISION 2. DEVELOPMENT PERMIT**

**Sec. 18-864. Development Permit Required.**

- (a) It shall be unlawful for any person to commence an Oil and Gas Operation unless a Development Permit has first been granted by the City in accordance with the Development Permit procedures in this Article and Sections 18-48 and 18-50 of the Code, or an Operator Agreement pursuant to Section 18-896.
- (b) A Development Permit for Oil and Gas Operations may be granted on property that has not been subdivided without requiring the property to be subdivided.
- (c) Once a Development Permit has been issued, Operators shall obtain a City Sales and Use tax license by filing the appropriate application with the Finance Director.
- (d) Once a Development Permit has been issued, Operators shall obtain all applicable permits and licenses prior to the commencement of Oil and Gas Operations and prior to construction of all above-ground structures or facilities as required by the City Building Code.
- (e) Notice procedures:
  - (1) Every Operator of any Oil and Gas Operation subject to these Regulations shall designate an agent residing within the state to receive any legal process or orders and notices provided for in this Article. Notice of change of the agent and the agent's address shall be submitted by certified mail, return receipt requested, to the Director or designee within 10 days following the occurrence of such change.
  - (2) Notice to the Director or designee shall be effective upon receipt by the department at the following address: City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229; Attention City Development.
- (f) Notice for consideration of a Development Permit reviewed by the Board shall be in accordance with Section 18-50.

**Sec. 18-865. Application Requirements for Development Permits for Oil and Gas Operations.**

Section 18-865 applies to all applications for Development Permits for Oil and Gas Operations.

The Director or designee may waive one or more of the application requirements if they are not applicable given the nature or location of the Oil and Gas Operation. The Director or designee may also request additional information deemed necessary for the review of the Development Permit application to evaluate compliance with these Regulations. The Applicant may submit materials submitted to the COGCC that satisfy these Regulations to avoid duplication.

- (a) An application for a Development Permit shall be submitted with full payment of the applicable application fee, as set forth by resolution of the Thornton City Council. The applicant shall also be responsible for all other costs associated with review, processing and approval of the application in accordance with applicable provisions of the Code. All such costs or any additional permit fees shall be paid prior to issuance of a Development Permit.
- (b) An application for a Development Permit shall be submitted to the Director or designee and shall include the following materials:
  - (1) The application shall be on a form furnished by the City and is in addition to that required by Section 18-31 and must include the Operator's name and address and, if any type of entity, the name and address of the registered agent of the Operator; or any other person that the Operator designates to receive notice.
  - (2) A summary operational statement for the proposed Oil and Gas Operations including anticipated number of wells upon full build-out, proposed on-site storage, any proposed phasing of the development, and anticipated operational hours on-site and for seismic and drilling operations.
  - (3) Copies of applicable COGCC Forms 1, 2, and 2A.
  - (4) A listing of all permits or approvals obtained or yet to be obtained from state or federal agencies other than COGCC.

- (5) The following types of plans or reports shall be provided with the application. To avoid duplicative or unnecessary work, the Operator may submit any plans or reports prepared for the COGCC or other regulatory agencies that the Director or designee determines are adequate substitutes for the plans and reports required in this Section.
- (a) Air Quality Impact Assessment and Mitigation Plan. The plan shall demonstrate the means of compliance with the Colorado Air Quality Control Commission ("CAQCC") and a means to minimize VOC emissions, compliance with all applicable federal EPA Regulations, and an assessment of air quality impacts of the proposed Oil and Gas Operation, and a plan to mitigate impacts and maintain air quality in compliance with these Regulations.
  - (b) Lighting Plan. A photometric study and plan for installation of lighting that mitigates light pollution and spill-over onto properties within 1000 feet of the pad site, and meets the glare requirements of Section 38-442 of the Code; provided, however, that the Operator may still use lighting that is necessary for public and occupational safety.
  - (c) Noise Management Plan. A plan identifying hours of maximum noise emissions, type, frequency, level of noise to be emitted. The plan shall include proposed mitigation measures and a requirement that all decibel readings to verify compliance with these Regulations shall be taken from the setback line for each well and production site.
  - (d) Stormwater Control Plan. A copy of the stormwater management plan submitted to the Water Quality Control Division and a description of the procedures to comply with the applicable COGCC stormwater control requirements in Rule 1002(f).
  - (e) Gathering Pipeline Integrity Management Plan.
    - 1. The Operator of a gas gathering pipeline shall prepare and maintain an integrity management plan in conformance with 49 CFR § 192, Subpart O.

2. The Operator of an oil gathering pipeline shall prepare and maintain an integrity management plan in conformance with 49 CFR § 195.452.
3. The plan shall include the location of existing pipelines and existing and proposed gathering pipeline(s) identify the material, thickness, diameter and operating pressure of existing and proposed pipelines; identify the materials transported in existing pipeline(s); identify the easement(s) by location and dimension; and identify owner of each existing pipeline.

(f) Water Availability Plan. The plan shall identify the anticipated volume of water needed for each phase of the operation and verification of all sources of water for the life of the proposed operation. The plan shall recognize and take into consideration that the City will not allow city water to be used by the Oil and Gas Operator.

(g) Water Quality Impact Assessment and Monitoring Plan. The plan shall establish a baseline and a process for monitoring changes to water quality and the aquatic environment to demonstrate the effectiveness of the mitigation. The plan shall include an inventory and location of all water bodies and groundwater, as well as domestic and commercial water wells within one mile of the proposed development. At a minimum, the plan shall address:

1. Key stream segments, other water bodies, and groundwater to be monitored.
2. Locations for and frequency of sampling and monitoring to establish baseline of existing conditions prior to the proposed Oil and Gas Operation including existing water quality, aquatic life and macro-invertebrates, and groundwater data.
3. Key indicators of water quality and stream health, and threshold levels that will be

monitored to detect changes in the water quality and health of the aquatic environment.

4. Locations for and frequency of sampling and monitoring for key indicators of water quality and stream health, including but not limited to, constituents regulated by the COGCC, and constituents associated with the proposed Oil and Gas Operation.
5. Locations for frequency of sampling and monitoring to measure effectiveness of water quality mitigation during the life of the proposed Oil and Gas Operation and five years after final reclamation of all disturbed areas are complete.
6. Projected impacts to water quality and mitigation steps that will be implemented to avoid degradation of water bodies if monitoring of key indicators reveals degradation.

(h) Wildlife and Habitat Assessment Mitigation Plan. The plan shall include identification of existing wildlife and wildlife habitat, as defined by the Colorado Division of Parks and Wildlife, an evaluation of the impacts of the proposed Oil and Gas Operations on wildlife and wildlife habitat, and proposed mitigation measures.

(i) Vegetation, Weed Management and Reclamation Plan. The plan shall include a written description of the species, character and density of existing vegetation on the site, a summary of the potential impacts to vegetation as a result of the proposed Oil and Gas Operations, and proposed mitigation to address these impacts and to comply with Section 38-444 of the Code. The plan shall also include an interim and final reclamation plan in conformance with COGCC reclamation requirements.

(j) Grading, Drainage and Erosion Control Plan. The plan shall identify existing and proposed contours, at two foot intervals, and the methods for controlling erosion and dust suppression during construction and for all phases of the proposed Oil and Gas Operation.

(k) Geological Assessment Report. This report shall detail the geological characteristics of the site prepared by a registered engineer at no cost to the City. The report shall include an assessment of the geologic hazards within one mile of the site and the plan for mitigating impacts from geologic hazards to the proposed development and impacts of the proposed development on such geologic hazards.

(l) Landscape Plan. The landscape plan shall explain how the Oil and Gas Operations will be constructed in a manner that will minimize the removal of and damage to existing trees and vegetation.

1. The plan shall include placement of earthen berms around the perimeter fencing, when feasible, and is in addition to applicable ground cover.
2. The plan must account for proper irrigation of plant materials, except, automatic irrigation systems are not required.

(m) Vicinity Map that includes:

1. The location of all existing bodies of water and watercourses, including direction of water flow. This information shall be submitted on United States Geological Service ("USGS") 7.5 minute series, assessor base maps which indicate topographic detail and show all existing bodies of water and watercourses with a physically defined channel within a 1,000 foot radius of the proposed well site or a map of equal quality and information.
2. The location of existing oil and gas wells as reflected in COGCC records including abandoned wells, within a 1,000 foot radius of the proposed location for the well site.
3. The location of proposed well site and proposed production site, including the information

submitted on COGCC Form 2, and shall be graphically depicted on a map of the section in which the sites are to be located. The information shall also include the tax parcel identification number of the property on which the well site and production site is to be located.

(n) Facilities Plan that includes:

1. A depiction of all proposed well sites, production sites and associated production facilities of the Oil and Gas Operation submitted on one or more plats or maps no less than one inch equals 100 feet or larger, showing:
2. A legal description of the property upon which all production facilities associated with the Oil and Gas Operation are proposed to be situated.
3. A north arrow and proper identification of the proposed well. The plan shall depict the location of the proposed well site, production site including any well, proposed twinning locations, motors, tank battery, separators and treaters, production pits, transmission and gathering pipelines, and other accessory equipment to be used during the drilling, maintenance and operation of the Oil and Gas Operation. The Facilities Plan shall identify all proposed accessways, and storage facilities associated with the well site and production site depicted, and shall contain a description and location of proposed landscaping, intended color of paint for storage tanks and other permanent structures, fencing and berming for the site.
4. A depiction all existing physical features, including drainageways, floodplains, roads and rights-of-way within 1,000 feet of the boundary of a well site or production site. The Facilities Plan shall also depict existing subdivision boundaries, existing buildings or structures, property lines, public and private utility easements of record and utility facilities and improvements on or located

within 1,000 feet of the boundary of the well site or production site.

5. A topographic map and aerial photo of the site and a boundary map specifically identifying the boundary lines for the development site production facilities.
6. The location of existing and proposed transmission lines and gathering pipeline(s) identified by material, thickness, diameter and operating pressure and the easement identified by location and dimension.
7. The location of guy line anchors buried for future use.
8. A map of all locations of existing oil and gas wells or injection wells as reflected in the COGCC records.

(o) Emergency Preparedness and Response Plan. A plan for each specific facility associated with the proposed Oil and Gas Operation in compliance with the International Fire Code as amended in the Code. The plan shall be filed with the Thornton Fire Department and the City's Emergency Manager and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.) and will include contact information for the Thornton Fire Department and the City Emergency Manager. The plan shall consist of at least the following information:

1. Name, address and phone number, including 24 hour emergency numbers for at least two persons responsible for emergency field operations.
2. A facilities map depicting the proposed locations and type of above and below ground facilities including sizes, and depths below grade of all oil and gas gathering and transmission lines and associated equipment, isolation valves, surface operations and their functions, as well as

transportation routes to and from exploration and development sites, for emergency response and management purposes.

3. Detailed information addressing each reasonable potential emergency that may be associated with the operation. This may include any or all of the following: explosions, fires, gas, oil or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.
4. 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 plan approved by the City shall be reported to the local emergency dispatch and the COGCC Director in accordance with COGCC Rules.
5. Detailed information identifying access or evacuation routes, and health care facilities anticipated to be used.
6. A project specific emergency preparedness plan for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas.
7. Detailed information showing that the Operator has adequate personnel, supplies, and training to implement the plan immediately at all times during construction and operations.
8. An Operator shall include a process for maintaining the current Material Safety Data Sheets ("MSDS") for all chemicals used or stored on a site for inspections, and a process for providing such MSDS information upon request, and at any stage of development, to city officials, a public safety officer, or a health professional.
9. A community outreach policy that establishes a process by which the Operator engages with the

surrounding neighbors to educate them on the risks of the on-site operations and to establish a process for surrounding neighbors to communicate with the Operator.

10. The Operator will provide the Director or designee a list of names and contact information for a third party emergency response agency, other than the Thornton Fire Department, an independent contractor, or a division within the Operator's Oil and Gas Operation that is appropriately equipped to respond to the specific emergency and other hazardous incidents that may occur in connection with the operation and proof that such agency or independent contractor is willing and able to respond to any such incident occurring on the site of the operation.
11. The Plan shall acknowledge that if an emergency situation arises at the Oil and Gas Operation that creates an imminent threat to health and safety as determined by the City, the Operator will, at the request of the City, immediately cease all operations until the Operator advises the City that the emergency is abated to the satisfaction of the City.
12. A provision obligating the Operator to reimburse the appropriate emergency response service providers for costs incurred in connection with any emergency in accordance with Colorado State Statutes.

(p) Transportation Plan.

1. The Operator shall prepare a comprehensive transportation plan that includes a detailed description of all proposed private and public access and haul routes for all product produced and transported, equipment delivered, removed water, sand, waste solids, fluids, E&P Waste, and any other materials to be hauled onto or from the development site.

2. The plan shall include a description of vehicles; including the license plate number of each vehicle, a description of each vehicle type, including the weight of each vehicle unloaded and loaded and the number of wheels and axles for each vehicle. The plan shall also include an estimate of the number of trips per day for each type of vehicle and for each phase of the Oil and Gas Operation. The foregoing information shall also be separately provided to the Traffic Engineer in connection with the process requiring the Operator to obtain an Access Road Permit, once a Development Permit is approved.
3. The plan shall include a means to insure that the use of public roads and public intersections will be in a manner that minimizes delay in use of public roads by the general public. The Operator will coordinate with the City's Traffic Engineer to achieve this result.

(q) Chemicals and Hydraulic Fracturing Fluids Disposal and Reporting Plan. A plan for disposal and reporting of chemicals and hydraulic fracturing fluids.

(r) Spill Prevention Control and Countermeasures Plan. The plan shall include, at a minimum, the Operator's compliance with the following:

1. Operator shall investigate, contain, and clean-up spill release immediately. All employees performing spill clean-up shall be qualified in accordance with all applicable state and federal requirements.
2. Report COGCC Rule 906 spills and releases to the Director or designee within 10 days after discovery and to enhance discovery adopt an electronic monitoring program.
3. Spills and releases which exceed one barrel of E&P Waste or produced fluids shall be reported to the Director or designee within 24 hours.

4. Spills and releases that impact or threaten to impact waters of the state, residence or occupied structure, livestock or public byway shall be reported verbally to the Director or designee within 24 hours, with a follow-up written notice within 48 hours of such verbal notice.
5. Spills and releases that impact or threaten to impact water supply area shall be reported verbally to Colorado Environmental Spill Reporting Hotline and the Director or designee immediately after discovery.
6. Spills and releases that impact or threaten to impact a water supply intake shall be reported immediately to the Director or designee and if the City is not the owner, also to the owner of the facility.
7. Chemical spills and releases shall be reported in compliance with state and federal laws.
8. Any type of uncontrolled events shall be reported to the Director or designee within 24 hours following the incident. Spill Report Form 19 and Form 23 Well Control Reports shall be submitted to the Director or designee and the Thornton Fire Department E-911 line, at the same time that they are submitted to the COGCC pursuant to COGCC Rule 327.

(s) Leak Detection and Repair Plan. A plan to detect and promptly repair leaks in equipment and facilities. At a minimum, the plan shall be comparable to EPA Method 21, and provide for:

1. Monthly infrared camera and olfactory inspections of new and existing wells, related facilities, and equipment. After one year of operation, inspections are quarterly;
2. Baseline inspections within 60 days after permit approval.

3. Computerized monitoring and leak detection with 24-hour reporting capabilities to the Operator; who will then provide notice to the Thornton Fire Department and Emergency Manager.

(t) The Applicant shall include an Operating Plan.

### **Sec. 18-866. Conditions of Development Permits for Oil and Gas Operations.**

All Oil and Gas Operations shall comply with the Development Standards set forth in Division 3 of this Article, which Standards shall be terms and conditions of a Development Permit Approval by the Board. In addition, the Director or designee shall not issue a Development Permit authorized by the Board until the Director or designee has received from the Operator verification that any additional conditions that were imposed by the Board have been met.

### **DIVISION 3. DEVELOPMENT STANDARDS**

Unless a Development Standard is waived pursuant to 18-895, the proposed Oil and Gas Operations wholly or partially within the City limits must demonstrate compliance with each of these Development Standards before the Board is authorized to issue a Development Permit.

### **Sec. 18-867. Setbacks.**

All Oil and Gas Operation facilities or structures (above-ground) shall be setback in accordance with the following provision. Setback measurements shall be from the boundary line specified by the Operator in the Operating Plan submitted and the edge or corner of the nearest building or the nearest boundary of an outdoor activity area, a property line, or a street or roadway:

- (a) Oil and Gas Operations shall be setback 1,000 feet from occupied buildings or buildings permitted for construction and shown on the applicable plat or applicable construction plans identifying the location of such buildings.
- (b) Oil and Gas Operations shall be setback 750 feet from platted residential lots or the boundary line for designated parks, sports fields and/ playground areas, designated open space or other designated outside activity areas.
- (c) Oil and Gas Operations other than pipelines shall be setback 500 feet from any surface water body, domestic or commercial water wells, or

irrigation wells. The term "Water body," as used in this Section, shall not include agricultural ditches or canals, or any type of stream or creek.

- (d) Oil and Gas Operations shall be setback 500 feet from any property line.

**Sec. 18-868. Surface disturbance.**

The Oil and Gas Operation shall be located and constructed in a manner that eliminates unnecessary or excessive site disturbance and that minimizes the amount of cut and fill on-site:

- (a) Multi-well drill pads shall be used for multiple wells and operations shall be consolidated whenever possible.
- (b) The size of the structure and surface equipment for present and future operational needs shall be minimized.
- (c) Pad dimensions shall be reduced to a size necessary to accommodate operations, and shall be located in a manner to minimize impacts on surrounding uses and be compatible with the natural topography and existing vegetation while maintaining safe operation distances in accordance with OSHA and generally accepted industry best practices.

**Sec. 18-869. Noise.**

- (a) Noise levels shall conform to COGCC noise regulations except that the noise level in any location at any time of day shall not exceed 60 db(A). No measurements shall be taken when traffic is passing the sound level meter.
- (b) Operations shall comply with the Noise Management Plan.
- (c) Electric motors and rigs shall be used where use of electric power is practicable.

**Sec. 18-870. Lighting.**

All lighting shall be installed in compliance with the Lighting Plan.

**Sec. 18-871. Landscaping and Reclamation.**

- (a) The Operator shall implement the Landscape Plan and the Vegetation, Weed Management, and Reclamation Plan.
- (b) Unless otherwise required by the Landscape Plan, the edges of the cleared vegetation shall be feathered and thinned and the vegetation shall be mowed, or brushed-hogged, while leaving root structure intact, instead of scraping the surface. All plant materials used shall be maintained in healthy going condition at all times. The Operator is responsible for the regular weeding, mowing, fertilizer, pruning and other maintenance of all plant materials as needed.
- (c) After commencement of production operations all excavation slopes, both cut and filled, shall be planted and maintained with grasses, plants, or shrubs for the purpose of adequate erosion control.

**Sec. 18-872. Containment Berms.**

- (a) Containment berms or other secondary containment facilities shall be installed around crude oil, condensate, and produced water storage tanks and shall be capable of impounding 150% of the capacity of the largest tank size within the berm.
- (b) Containment berms shall be constructed of steel rings or equivalent technology.
- (c) The number of crude oil or condensate storage tanks shall not exceed the berm capacity based upon generally accepted engineering criteria, but shall be designed to minimize the overall site footprint and surface disturbance.
- (d) Secondary containment areas for tanks shall be constructed with a synthetic or engineered liner, mechanically connected to the ring.
- (e) No potential ignition sources shall be located inside the secondary containment area unless the area encloses a fired vessel.

**Sec. 18-873. Fencing.**

- (a) All pumping systems and accessory equipment shall be screened on all sides by a non-flammable type of privacy fence of a height equal to the highest accessory equipment. 
- (b) Chain link, wrought iron or other type of open style fence material shall be installed surrounding the entire Oil and Gas Operation 

approved development project site. The Operator shall use the factory applied finish or may paint wrought iron black; galvanized is appropriate for chain link fence.

- (c) Access to the Oil and Gas Operations approved development project site shall be provided by a securely locked, solid gate that preserves the integrity of the screening but that is designed to allow access by emergency responders.

**Sec. 18-874. Signs.**

Operator shall install signs displaying Operator contact and well information and warning of safety hazards. All Oil and Gas Operations shall be posted with a "No Trespassing" sign, which may be incorporated into any warning sign. Such No Trespassing signs shall meet the requirements of Section 38-179(a) for posted premises.

**Sec. 18-875. Floodplain.**

- (a) Oil and Gas Operations shall be designed and operated in compliance with City floodplain regulations.
- (b) The equipment and facilities of an Oil and Gas Operation shall be anchored to resist flotation, collapse, lateral movements, or subsidence.

**Sec. 18-876. Well Leak Detection and Repair.**

Operator shall implement the Leak Detection and Repair Plan.

**Sec. 18-877. Water Reuse/Waste Water.**

- (a) Operator shall recycle and reuse water, to  extent feasible, and shall minimize waste water production.
- (b) No E&P  Waste shall be permanently stored on the site. E&P Waste shall be stored in tanks on-site for no longer than three months and transported off-site by tanker trucks for disposal at facilities approved to receive E&P Waste.

**Sec. 18-878. Water Quality/Supply.**

- (a) The Operator has demonstrated an adequate water supply is available for all phases of the Oil and Gas Operation.

- (b) The Operator shall comply with the Grading, Drainage and Erosion Control Plan.
- (c) The Oil and Gas Operation shall not cause significant degradation of water quality of affected water bodies as set forth in the approved Water Quality Impact Assessment and Monitoring Plan.
  - (1) Maintenance of machinery is prohibited within 300 feet of a water body; a water body shall not include an agricultural ditch, streams or creeks.
  - (2) No fluids shall be discharged off site, except pursuant to an approved discharge permit.
  - (3) Operator shall test for metals and other pollutants to establish baseline and post drilling in accordance with the approved Water Quality Assessment and Monitoring Plan.
  - (4) Closed loop systems are required. 
  - (5) Underground injection wells are hibited within the City.

**Sec. 18-879. Air Quality Standards.**

- (a) Produced gas shall be captured unless release is required for safety purposes; uncontrolled venting is prohibited.
- (b) Where electric engines are not possible, fossil fueled engines shall employ the latest emission-reduction technologies.
- (c) Operator shall submit a compliance plan to the Director or designee for all instances of non-compliance with Air Pollution Control Division Regulation 7 in the annual certification report.
- (d) Flaring is prohibited except under upset or ergency conditions.
- (e) Automated well control measures shall be installed to prevent gas venting during emission control system failures or other upset conditions.
- (f) Operator will comply with the Air Quality Impact Assessment and Mitigation Plan.

**Sec. 18-880. Green Completions - Emission Control Systems.**

Flow lines, separators, and sand traps shall be consistent with the green completion requirements of COGCC Rule 805.

**Sec. 18-881. Chemical Disclosure and Hazardous Material Storage.**

- (a) Chemical disclosure shall be made in compliance with COGCC Rules.
- (b) Hazardous material storage shall be conducted in compliance with the Chemicals and Hydraulic Fluids Disposal and Reporting Plan.

**Sec. 18-882. Spill and Release, Response, and Reporting.**

Spill and release response and reporting shall be in compliance with the Spill Prevention Control and Countermeasures Plan.

**Sec. 18-883. Discharge Valves.**

- (a) Discharge valves shall be secured.
- (b) Open-ended discharge valves shall be placed in containment.

**Sec. 18-884. Traffic.**

The Operator shall implement the Transportation Plan.

**Sec. 18-885. Access Roads.**

- (a) Access roads to a production site:
  - (1) Shall be a graded roadway having a prepared subgrade and an aggregate base course surface a minimum of 10 inches thick compacted to a minimum density of 95% of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures.
  - (2) The aggregate base course at a minimum shall meet the requirements for the Colorado Department of Transportation's Class 1, 4, 5, or 6 aggregate base courses as specified in the Colorado Department of Transportation's Standard Specifications for Road and Bridge Construction, latest edition.

- (3) The access road shall be graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways (i.e., roadside swales, gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval of the development engineering manager.
- (b) Access roads to a well site:
- (1) Shall be graded, dirt roadway compacted to a minimum density of 95% of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures.
  - (2) Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval of the development engineering manager.
- (c) All proposed access roads that gain access off of a paved public right-of-way shall be improved to the following minimum standards:
- (1) An access width of 24 feet with paved 35 foot radii at each side of the access road at the point of intersection with the public right-of-way.
  - (2) A minimum of six inches of asphalt pavement over the initial 24 foot portion of the proposed access road, beginning at the edge of the existing pavement of a paved public right-of-way; the Operator shall maintain the private access portion of this road. In addition, two inches minimum for gravel shoulders on either side of the asphalt pavement.
  - (3) The road shall be improved from the point of connection a minimum of distance of 200 feet on the access road.
  - (4) Traction chains from heavy equipment shall be removed before entering public roadways.
  - (5) The Operator shall take all practicable measures to ensure that production and transport truck traffic does not track mud or debris onto public roads. If mud or debris is nonetheless

deposited on a public road, the Operator shall be required to clean the roadway in accordance with the requirement of Section 38-394 of the Code; this obligation is in addition to general maintenance obligations below.

- (d) General maintenance obligations to clean road shall include use of a street sweeper to clean public access roads from all dust, mud, or debris daily or more frequently as deemed necessary by the City. All such street cleaning shall be to the satisfaction of the City. Snow removal shall be on the private portion of the access roads referenced in Subsection (c)(3) above and shall occur within 24 hours of storms which produced accumulations of snow of two inches depth or greater. The Operator shall keep all private roads and access road in good repair at all times such that the roads continue to meet the road standards set forth herein.

**Sec. 18-886. Wildlife Standards.**

- (a) The Oil and Gas Operation shall not cause significant degradation of wildlife or wildlife habitat and the Operator shall implement the Wildlife and Habitat Assessment and Mitigation Plan.
- (b) When a well site or production site is located in a significant wildlife habitat, as defined by the Colorado Division of Parks and Wildlife, or where designated in the City's Comprehensive Plan, the applicant shall consult with the Colorado Division of Parks and Wildlife and the City shall obtain recommendations for appropriate site-specific impact mitigation procedures. The Operator shall implement such procedures as recommended by the Colorado Division of Parks and Wildlife in addition to any other requirements set forth in in the Wildlife and Habitat Assessment and Mitigation Plan.

**Sec. 18-887. Load Lines.**

Load lines shall be capped, bull-plugged or locked shut. Load line receivers/valves shall be placed inside secondary containment areas or in a proper load line containment device or both.

**Sec. 18-888. Compatibility with Surrounding Uses.**

- (a) Site Preferences.
  - (1) Production and storage facilities shall be designed to maximize distances from prominent natural features such as

distinctive rock and land formations, vegetative patterns, river or creek crossings, City-owned and designated open space areas, and other designated landmarks. Such sites shall be located to avoid, to the extent feasible, the top of hills and ridges in order to prevent the appearance of any accessory equipment profiles on the horizon.

- (2) The Operator shall locate facilities at the base of slopes to provide a background of topography and/or natural cover whenever feasible. The applicant shall align on-site roads to follow existing grades and minimize cuts and fills.

(b) Facilities Mitigation.

- (1) All applicable production facilities that can be painted, shall be painted as follows:

- (a) Uniform, non-contrasting, non-reflective color tones, similar to the Munsell soil color coding system.

- (b) The color of facilities shall be matched to land, not the sky, and be slightly darker than adjacent landscape.

- (c) Any exposed concrete shall be colored to match the soil color.

- (2) Electric pumping systems shall be required in all areas where service is technically and practicably available. Electrical lines servicing pumping and accessory equipment shall be installed below ground.

- (3) All structures and equipment shall be regularly maintained so as not to become so deteriorated as to be hazardous or potentially injurious to the public health and safety.

- (4) Landscaping for the site shall be installed in accordance with the Landscaping Plan approved when a Development Permit is granted. Maintenance of the Landscaping Plan as approved is required on and surrounding the site in accordance with the applicable provisions of Chapter 18 of the Code at all times the site is owned by the Operator.

- (5) When an Oil and Gas Operation becomes operational, all construction-related debris shall have been removed from the

site for proper disposal. The entire Oil and Gas Operation development project site shall be maintained free of debris and excess materials at all times during operations. Burying debris or any type of excess materials on-site is prohibited.

- (6) All equipment used for drilling, re-completion and maintenance of the Oil and Gas Operation development project site shall be removed from such site within 30 days of completion of the work. Permanent storage of equipment on well pad sites shall not be allowed.

**Sec. 18-889. Blowout Preventer Equipment.**

- (a) Blowout Preventer Equipment for Drilling Operations shall include the following:
  - (1) Rig with Kelly; double ram with blind ram and pipe ram; annular preventer or a rotating head.
  - (2) Rig without Kelly; double ram with blind ram and pipe ram.
  - (3) Pressure test casing string and each component of blowout prevention equipment upon initial rig-up and minimum once every 30 days during drilling operations; document and retain results up to one year.
  - (4) Daily activation of pipe rams for function testing.
  - (5) Mineral management certification or approved training required for at least one person at well site during drilling operations.
- (b) Blowout Preventer Equipment for Well Servicing Operations shall include the following:
  - (1) Adequate blowout prevention equipment used on all well servicing operations.
  - (2) Backup stabbing valves required on well servicing operations during reverse circulation and valves pressure tested before each well servicing.

**Sec. 18-890. Control of Fire Hazards.**

- (a) Fire hazards that are discovered must be moved to a location at least 25 feet from the wellhead, tanks and separator.
- (b) The site of the Oil and Gas Operations shall comply with API RP 500 classifications and the National Electrical Code.

**Sec. 18-891. Guy Line Anchors.**

All guy line anchors left buried for future use shall be identified by a marker of bright color not less than four feet in height and not greater than one foot east of the guy line anchor.

**Sec. 18-892. Tank Specifications.**

The Operator shall maintain written records verifying proper design, construction, and maintenance. All newly installed or replaced crude oil and condensate storage tanks shall be designed, constructed, and maintained in accordance with the National Fire Protection Association ("NFPA"), more specifically Code 30. All Fire Department tanks that are part of the production site, and not temporary tanks, shall be no higher than nine feet.

**Sec. 18-893. Liability Insurance.**

All Operators shall maintain general liability insurance coverage for property damage and bodily injury to third parties in the minimum amount of \$2,000,000 per occurrence. Such policies shall endorse the City as an additional insured and the Operator shall provide a copy of such policy upon request by the City. In addition, the Operator shall indemnify the City for any damage or injury resulting from any Oil and Gas Operation or any hazardous or dangerous condition resulting from such operations.

**Sec. 18-894. Additional Standards for Gathering Pipelines.**

- (a) **Underground Location.** All gathering pipelines, whether owned by the Operator or another company associated with the Oil and Gas Operation, shall be located underground.
- (b) **Alignment.** Gathering pipelines shall be aligned with established roads and share existing pipeline rights-of-way or consolidate new corridors for pipeline rights-of-way whenever possible.
- (c) **Water Body Crossing.** Boring technology shall be used for gathering pipelines crossing streams, rivers or irrigation ditches.

- (d) Compliance with Floodplain Regulations. Gathering pipelines located in or crossing area of special flood hazard, determined pursuant to Section 18-620, shall comply with the requirements of the City's floodplain regulations in Chapter 18, Article V, Division 7.
- (e) Operations and maintenance. Operations and maintenance shall be conducted in accordance with the Procedural Manual for operations, maintenance, and emergencies prepared in conformance with 40 CFR § 192.605 for gas gathering pipelines or 40 CFR § 195.402 for oil gathering pipelines. This manual will be provided to the Director or designee before initial operations commence.
- (f) GPS Information and As-Built Drawings. Within 30 days of completing construction, the following information shall be provided to the Director or designee:
  - (1) Global positioning system ("GPS") information sufficient to locate the gathering pipeline in a format compatible with the City's GIS system.
  - (2) As-built drawings.
  - (3) Engineering plans, drawings, and maps with summarized specifications showing the horizontal location, covering depths, and location of shutoff valves of the gathering pipeline. The drawings shall show the location of other pipelines and utilities that are crossed or paralleled within 15 feet of the gathering pipeline right-of-way.
  - (4) Detailed cross-section drawings for all public rights-of-ways and easement crossings on City property.
  - (5) A list of names and mailing addresses of all residents, property owners, and tenants adjacent to the gathering pipeline construction.
- (g) Recordation of As-Built Location and Abandonment.
  - (1) A legal description of the gathering pipeline location shall be recorded with the City and the County Clerk and Recorder within 30 days after construction is completed.

- (2) The Director or designee and the County Clerk and Recorder shall be notified of abandonment of any recorded gathering pipeline within 30 days after abandonment.
- (h) Restoration of Site upon Completion of Construction. Within 30 days after construction of a gathering pipeline is completed, the affected property shall be graded, leveled, and restored to the same surface condition, as nearly as practicable, as existed before construction activities were first commenced.
- (i) Valves. Gathering pipeline shall be equipped with automatic shut-off valves or remote control valves.
- (j) Computerized Monitoring and Leak Detection. Gathering pipelines shall be equipped with computerized monitoring and leak detection that provides immediate notice of any leak to the City's emergency response providers.
- (k) Oil Gathering Pipelines. In addition to the provisions of 40 CFR § 195 and the above standards, these additional requirements apply to oil gathering pipelines:
- (1) Setback. Oil gathering pipelines shall be located at a minimum distance of 500 feet from a residence, school, or place of business.
- (2) Periodic Reports and Reporting of Accidents and Safety Related Conditions for Oil Gathering Pipelines.
- (a) Operator shall provide the Director or designee with copies of the periodic reports at the time of reporting to the Pipeline Hazardous Materials Safety Administration ("PHMSA").
- (b) Operator shall notify the Director or designee of accidents and safety related conditions at the time of reporting to the PHMSA.
- (l) Gas Gathering Pipelines. In addition to the provisions of 40 CFR § 192 and the above standards, these additional requirements apply to gas gathering pipelines.

- (1) Notification of Gas Leaks. Director or designee shall be notified immediately of gas leaks that would result in evacuation of any people or road or railroad closures.
- (2) Standards for Gas Gathering Pipelines located in areas with 10 or fewer buildings or outdoor areas of public assembly within 220 yards on either side of the centerline of any continuous one mile length of pipeline.
  - (a) Hoop stress of 20% or more MAOP or more than 125 psig. Metallic gathering pipelines with a MAOP that produces a hoop stress of 20% or more of the SMYS or non-metallic gathering pipelines with a MAOP of more than 125 psig, shall comply with the transmission line requirements of 49 CFR § 192, except for Subpart D.
  - (b) Hoop stress of less than 20% MAOP or less than 125 psig. Metallic gathering pipelines with a MAOP that produces a hoop stress of 20% or less of the SMYS or non-metallic gathering pipelines with a MAOP of less than 125 psig shall comply with the following:
    1. If a line is new, replaced, relocated or otherwise changed, the design, installation, construction, initial inspection, and initial testing must comply with the following:
      - i. Design and Installation:
        - a. 49 CFR § 192 Subpart B.
        - b. 49 CFR § 192 Subpart C.
        - c. 49 CFR § 192 Subpart D.
      - ii. Construction and Inspection:  
49 CFR § 192 Subpart B.
      - iii. Initial Testing: 49 CFR § 192 Subpart J.
    2. Metallic gathering pipelines shall comply with corrosion control requirements of 49 CFR § 192.614, Subpart L.

3. Damage prevention program described in 49 CFR § 192.614, Subpart L.
4. Public education program as required by 49 CFR § 192.616, Subpart L.
5. Install and maintain line markers required by 49 CFR § 192.707, Subpart M.
6. Leakage control program according to 49 CFR § 192.723(b), Subpart M.
7. Procedural Manual addressing the maintenance and operational requirements of this Section.

**Sec. 18-895. Waiver of Development Standards.**

An applicant may request waiver of one or more of the Development Standards in this Division 3 because of operational conflict, because of technical infeasibility, or for environmental protection purposes.

- (a) Operational Conflict. A Development Standard may be waived by the City Council, if compliance with the Development Standard would materially impede or destroy the state's interest in the responsible, balanced development, production and utilization of oil and gas consistent with protection of public health, safety and welfare, including protection of the environment and wildlife resources.
  - (1) Waiver Request. Upon written request by the applicant, a public hearing before the City Council will be scheduled to take place as soon as possible following receipt of the written waiver request.
  - (2) Notice of Public Hearing.
    - (a) The notice of public hearing on the waiver request shall be prepared by the Director or designee and shall include a description of the proposed Oil and Gas Operation standard(s) sought to be waived, and the date and location of the hearing.
    - (b) Not less than 15 calendar days prior to the hearing, the Director or designee shall publish the notice of the

public hearing on the waiver request using any authorized means of publication at the City's expense.

- (c) Not less than 15 calendar days prior to the date of the public hearing on the waiver request, the Director or designee shall mail written notice of the public hearing to owners of real property within one-half mile of the subject parcel where the proposed Oil and Gas Operations are located. The list of property owners to be notified shall be compiled by the Director or designee using the most current list of property owners on file with the County Assessor. The applicant shall be responsible for reimbursing the City for all costs associated with the notice of hearing.
- (3) Decision by City Council. The City Council may waive the standard if it is determined that based on evidence and testimony at the hearing, that compliance with the Development Standard will create an operational conflict as described in Subsection (a). The City Council may impose conditions that are necessary to minimize any negative impacts of the waiver.
- (b) Technical Infeasibility. A Development Standard may be waived by the City Council, based upon technical infeasibility asserted by the applicant at any time during the application review process and prior to the final decision on the application. The City Council may approve the request for waiver if it is determined that there is no economical technology commercially available to conduct the proposed Oil and Gas Operation in compliance with the standard and conduct of the proposed Oil and Gas Operation, if the standard is waived, will be protective of public health, safety, welfare, the environment, and wildlife resources.
    - (1) Waiver Request. Upon written request by the applicant, a public hearing before the City Council will be scheduled to take place as soon as possible following receipt of the written waiver request.
    - (2) Notice of Public Hearing.
      - (a) The notice of public hearing on the waiver request shall be prepared by the Director or designee and shall include a description of the proposed Oil and Gas Operation,

description of the standard(s) sought to be waived, and the date and location of the hearing.

- (b) Not less than 15 calendar days prior to the hearing, the Director or designee shall publish the notice of the public hearing on the waiver request using any authorized means of publication at the City's expense.
  - (c) Not less than 15 calendar days prior to the date of the public hearing on the waiver request, the Director or designee shall mail written notice of the public hearing to owners of real property within one-half mile of the subject parcel where the proposed Oil and Gas Operations are located. The list of property owners to be notified shall be compiled by the Director or designee using the most current list of property owners on file with the County Assessor. The applicant shall be responsible for reimbursing the City for all costs associated with the notice of hearing.
- (3) Decision by City Council. The City Council may waive the standard if it determines that based on evidence and testimony at the hearing, that compliance with the Development Standard is technically infeasible as described in Subsection (b) herein. The City Council may impose conditions that are necessary to minimize any negative impacts of the waiver.
- (c) Environmental Protection. The Operator may make a written request to the Director or designee for a waiver based on environmental protection at any time during the application review process prior to the final decision on the application. The Director or designee may approve the request for waiver if protection of public health, safety, welfare and the environment will be enhanced by an alternate approach not contemplated by the standard.

### **Sec. 18-896. Operator Agreement.**

In lieu of submitting an application for a Development Permit pursuant to these Regulations, an Operator may seek permission from the City to enter into negotiations for an Operator Agreement between the City and the Operator for development of Oil and Gas Operations, to be approved by the City Council, and upon terms and conditions that shall be mutually beneficial and shall meet or exceed the requirements of these Regulations.

- (a) An Operator wishing to enter into an Operator Agreement with the City must submit a written request to the Director or designee.
  - (1) A form Operator Agreement, in a form approved by the Director or designee, is available upon request; but is not required. Provided however, every Operator Agreement shall include a provision consenting to the requirements of Section 18-898.
  - (2) The minimum submittal requirements of Section 18-865(a) and (b)(1) through (5) shall be required.
  - (3) A request to terminate an Operator Agreement by an Operator, without a cessation of production, will be granted only if the Operator obtains a Development Permit pursuant to Section 18-864, prior to termination of the Operator's Agreement.
- (b) Upon approval of an Operator Agreement, as to form and terms, the Operator Agreement shall be presented to the City Council for administrative approval at a regular meeting.
- (c) Approval of the Operating Agreement will authorize issuance of a Development Permit to the applicant.

#### **DIVISION 4. ENFORCEMENT**

##### **Sec. 18-897. Enforcement Remedies.**

Notwithstanding the applicable provisions of Section 18-4 of the Code, all enforcement remedies are cumulative.

##### **Sec. 18-898. Right to Enter/Inspections.**

The City shall have a right to inspect all Oil and Gas Operations upon reasonable notice. By accepting an approved Development Permit or entering into an Operator Agreement, the applicant grants consent to such inspections.

- (a) Right to Enter. For the purpose of implementing and enforcing these Regulations, duly authorized City personnel or contractors may enter onto the Operator's Property upon a minimum three days' notice to the Operator or any other party holding a legal interest in the Property.

- (b) Operator contract. The applicant shall provide the telephone number and email address of a contact person who may be reached 24 hours a day for purposes of being notified of any proposed City inspection under this Section. Permitted Oil and Gas Operations may be inspected by the City at any time to ensure compliance with the requirements of the approved Development Permit, provided that a minimum of 72 hours' notice is given to the contact person at the telephone number or email address supplied by the applicant.
- (c) The cost of any City inspection deemed reasonable and necessary to implement or enforce these Regulations shall be borne by the applicant, provided such inspections and fees are not in conflict with COGCC inspections and rules.
- (d) If entry is denied, the City shall have the authority to discontinue application processing, initiate the process to revoke a Development Permit pursuant to Section 18-899, initiate termination of an Operator Agreement, or obtain an order from a court of competent jurisdiction to obtain entry.

**Sec. 18-899. Revocation of a Development Permit.**

The following provisions supersede Section 18-4(b) of the Code:

- (a) If the City Manager believes an Operator has failed to conduct its Oil and Gas Operations in accordance with the terms and conditions of the approved Permit and these Regulations, the City Manager may initiate proceedings herein to revoke or suspend the Operator's Development Permit.
  - (1) As a condition precedent to initiating a proceeding to revoke a Development Permit, the City must provide written notice to Operator specifying, in reasonable detail, the factual basis to assert the failure of the Operator to comply with the Development Permit requirements and the remedy required. The Operator shall have 10 calendar days from the date of the receipt of the notice to commence actions to remedy the failure and such actions shall be completed within a reasonable time.
  - (2) If the Operator fails to remedy a failure in the manner set forth above, the City Manager shall request a hearing before the City Council. Upon 10 days written notice sent by certified

mail to the Operator, the City Council shall schedule a public hearing on the alleged failure of the Operator to comply with the requirements of the Operator's Development Permit and these Regulations. At such hearing, the City Council may determine that no such failure occurred, that such failure occurred but was remedied in the manner set forth above, or that such failure occurred and has not been remedied.

- (b) If the City Council finds that the Operator has failed to comply with the Development Permit requirements or these Regulations, and such failure has not been remedied, the City Council, upon a 15 day notice to Operator prior to such action, may act in its discretion to suspend or revoke the Development Permit and any or all approvals for operations of the subject Oil and Gas Operations.
- (c) Upon such revocation, Operator shall cease the Oil and Gas Operation at issue until it obtains approval for such Operation under the then-applicable City Code. If the Operator fails to comply, the City may initiate a legal proceeding to enforce the City Council's Order.

4. Section 18-901 is hereby amended by the addition of the words double-underlined and the deletion of the words stricken, to read as follows:

**Sec. 18-901. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Closed loop systems* means a closed loop mud drilling system that typically consists of steel tanks for mud and storage, and the use of solids removal equipment, which normally includes some combination of shale shakers, mud cleaners and centrifuges sitting on top of the mud tanks. This equipment separates drill cutting solids from the mud stream coming out of the wellbore while retaining the water or fluid portion to be reused in the continued drilling of the well bore. The solids are placed in containment provided on the site. The system differs from conventional drilling where a reserve pit is used to allow gravitational setting of the solids from the mud which can then be reused. A closed loop system does not include use of a conventional reserve drilling pit.

COGCC means the Colorado Oil and Gas Conservation Commission of the State of Colorado.

*Completion* means the process that perforates well casing, stimulates the reservoir using various techniques, including but not limited, to acid treatment and Hydraulic Fracturing, allows for the flowback of petroleum or natural gas from wells to expel drilling and reservoir fluids, and tests the reservoir flow characteristics, which may vent produced hydrocarbons to the atmosphere via an open pit or tank.

*Expansion of oil and gas operations* means an increase in the size of a drilling pad or an increase in the number of wells at an existing Oil and Gas Operation.

*Exploration and Production Waste ("E&P Wastes")* means those wastes associated with operations to locate or remove oil or gas from the ground or to remove impurities from such substances and which are uniquely associated with and intrinsic to oil and gas exploration, development, or production operations that are exempt from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 USC Sections 6921, *et seq.* For natural gas, primary field operations include those production-related activities at or near the well head and at the gas plant (regardless of whether or not the gas plant is at or near the wellhead) but prior to transport of the natural gas from the gas plant to the market. In addition, uniquely associated wastes derived from the production stream along the gas plant feeder pipelines are considered E&P Wastes, even if a change of custody in the natural gas has occurred between the wellhead and the gas plant. In addition, wastes uniquely associated with the operations to recover natural gas from underground storage fields are considered to be E&P Wastes.

*Flowline* for purposes of Article X, means a pipeline connecting individual well sites to gathering lines.

*Gathering pipeline* means a pipeline that transports gas or oil from a current production facility to a transmission line or main.

*Geologic hazard* means a geologic condition which is adverse to current or foreseeable future construction or land use associated therewith constituting a hazard to public health and safety or property. This includes but is not limited to landslide, rock fall, slope failure, mudflow or other unstable surface or subsurface conditions and includes subsurface features such as fault lines, aquifers and other geothermic and geologic phenomena.

*Green completion practices* mean those practices intended to reduce emissions of salable gas and condensate vapors during cleanout and flowback operations prior to the well being placed in production and as thereafter applicable.

*Hydraulic Fracturing or Hydraulic Fracturing Treatment* means all stages of the treatment of a well by the application of Hydraulic Fracturing Fluid under pressure that is expressly designed to initiate or propagate fractures in a target geologic formation to enhance production of oil and natural gas.

*Hydraulic Fracturing Fluid* means the fluid, including the applicable base fluid and all Hydraulic Fracturing additives, used to perform a Hydraulic Fracturing Treatment.

*Injection well* means any hole drilled into the earth into which fluids are injected for the purposes of secondary recovery, storage, or disposal, pursuant to authorizations granted by the COGCC.

*Kelly* means the heavy square or hexagonal steel member suspended from the swivel through the rotary table and connected to the topmost joint of drill pipe to turn the drill stem as the rotary table turns.

*Load Line* means a type of hose to pump oil and water into a transport truck.

*Maximum allowable operation pressure [MAOP]* means the maximum pressure at which a pipeline or segment of a pipeline may be operated pursuant to 49 Code of Federal Regulations 192 Part A.

*Oil and Gas Containment Berm* means a barrier of any type used for preventing the passage of liquid materials or providing screening from adjacent uses as may be specified in an applicable development standard.

*Oil and Gas Operations* means the exploration for oil and gas; the siting, drilling, deepening, recompletion, reworking, refracturing, closure or abandonment of a Well and pumping stations; production facilities and operations including the installation of flow lines and gathering lines, accessory equipment, construction, site preparation, reclamation and any and all related activities associated with the development of oil and gas resources.

*Operator* means the person designated as operator and named in COGCC form 2 or a subsequently filed COGCC form 10 and/or any person who exercises the right to control the Oil and Gas Operations.

*Operator Agreement* means an agreement between the City and an Operator describing how proposed Oil and Gas Operations are to be conducted within the municipal boundaries.

*Pitless* means with respect to drilling, there is no pit regardless of size or function. This includes conventional reserve drilling pits and drilling cutting pits, but does not include flare pits which may be utilized to contain necessary flaring during the drilling, completion, or up-set conditions. An above ground water tight metal or other material container is utilized instead of a sub-surface pit to hold drilling cuttings until they are disposed of.

*Production Facility* means any storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

*Production site or Site* means that surface area immediately surrounding proposed or existing production pits, or other accessory equipment and facilities that are necessary for oil and gas production operations, exclusive of transmission and gathering pipelines.

*Reclamation* means the process of returning or restoring the surface of disturbed land as nearly as practicable to its condition prior to the commencement of Oil and Gas Operations or to landowner specifications with an approved variance under COGCC Rule 502.b.

*Recompletion of a well* means actions taken following the initial completion of a well, including the action and techniques of reentering the well and redoing or repairing the original completed well to restore the well's productivity.

*Specified minimum yield strength [SMYS]* means:

- (1) For steel pipe manufactured in accordance with a listed specification, the yield strength specified as a minimum in that specification; or
- (2) For steel pipe manufactured in accordance with an unknown or unlisted specification, the yield strength determined in accordance with § 192.107(b) of 49 Code of Federal Regulations 192 Part A.

*Spill* means any unauthorized sudden discharge of E&P Waste to the environment.

*VOC Emissions* means volatile organic compounds in Oil and Gas Operations that are released into the atmosphere or ground.

*Well* means an oil or gas well or injection well; a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well-used for the purpose of monitoring or observing a reservoir.

*Wildlife Habitat* for the purposes of Article X, means a natural or man-made environment that contains the elements of food, shelter, water, and space in a combination and quantity necessary to sustain one or more wildlife or plant species at stable population levels in historically-used habitats. Sensitive wildlife habitat areas include, but are not limited to, nesting, brood rearing areas, rookeries, leeks, migration corridors, calving and fawning grounds for big game.

5. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining

portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

7. The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

8. This ordinance shall take effect upon final passage.

DRAFT

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on \_\_\_\_\_, 2016.

PASSED AND ADOPTED on second and final reading on \_\_\_\_\_, 2016.

CITY OF THORNTON, COLORADO

\_\_\_\_\_  
Heidi K. Williams, Mayor

ATTEST:

\_\_\_\_\_  
Nancy A. Vincent, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Gary G. Jacobson, Interim City Attorney

PUBLICATION:

Posted in six public places after first and second readings.

Published in the Northglenn Thornton Sentinel after first reading on \_\_\_\_\_, 2016, and after second and final reading on \_\_\_\_\_, 2016.

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