

# CITY COUNCIL COMMUNICATION



**MEETING DATE:** July 10, 2012

**ITEM NUMBER:** 11.C.

**SECOND READING:** N/A

**TYPE OF ITEM:** General Business

**PRESENTED BY:** Brien Schumacher, Sr. Planner, 303-651-8764  
Eugene Mei, City Attorney, 303-651-8616

**SUBJECT/AGENDA TITLE:** Draft Oil and Gas Regulations

## EXECUTIVE SUMMARY:

On May 22<sup>nd</sup> at second reading of the draft oil and gas regulations ordinance O-2012-25, Council voted 4-3 to table consideration of the ordinance. Council also voted 6-1 at that meeting to pass on first reading an extension of the temporary moratorium on accepting and processing oil and gas applications for an additional 45 days to July 31<sup>st</sup>. On June 5<sup>th</sup> Council voted 5-2 to approve the moratorium extension on second reading.

The regulations were tabled and the moratorium extension was approved to allow time for staff to meet with the Colorado Oil and Gas Conservation Commission (COGCC), the Colorado Oil and Gas Association (COGA) and TOP Operating Company to discuss state permitting procedures and work on agreements regarding potential drilling locations on City owned properties within the City limits. Staff has met with COGCC and COGA and is negotiating agreements with TOP Operating Company that will be scheduled for review by Council in July.

Staff has been directed to schedule the draft oil and gas regulations for discussion at the July 10<sup>th</sup> City Council meeting. Attached for Council's review is the draft ordinance O-2012-25 that Council tabled on May 22<sup>nd</sup> as well as a redline version of the draft ordinance O-2012-25 as presented by Council member Bagley.

## COUNCIL OPTIONS:

1. Direct staff to schedule the tabled draft regulations for consideration on July 17<sup>th</sup>.
2. Direct staff to schedule the redline version of the draft regulations as presented by Council member Bagley for consideration on July 17<sup>th</sup>.
3. Direct staff to schedule a modified version of the draft regulations as recommended by Council for consideration on July 17<sup>th</sup>.
4. Direct staff to not schedule draft regulations for further consideration.

**RECOMMENDED OPTIONS:** Council policy decision.

**FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:** There is no fiscal impact regarding the City Council's decision at this time.



**ATTACHMENTS:**

Ordinance O-2012-25

Ordinance O-2012-25 redline version as presented by Council member Bagley

ORDINANCE O-2012-25

2 A BILL FOR AN ORDINANCE AMENDING CHAPTERS 15.04, 15.05, 15.07, 15.10 AND  
3 APPENDIX B OF TITLE 15 OF THE LONGMONT MUNICIPAL CODE REGARDING OIL  
4 AND GAS WELL OPERATIONS AND FACILITIES

6 WHEREAS, domestic oil and gas exploration, along with the associated pollution and  
7 health risks, have increased in proximity to residential areas in urban, suburban, and rural  
8 communities across the United States. The Greater Wattenberg Area (“GWA”), which  
9 encompasses the City of Longmont (“City”), and most of Boulder, Weld, Larimer, Adams,  
10 Broomfield, and parts of Arapahoe and Douglas Counties, Colorado, is the focus of a surge in  
11 these activities.

WHEREAS, there are more than 45,000 active oil and gas wells in Colorado, and exploration and production in the GWA has experienced rapid growth during the past decade. Over the past several years new processes have been introduced in the GWA that have made exploration and production of “unconventional” oil and gas resources, such as the Niobrara formation, very attractive. As a result, there has been a surge in directional and horizontal drilling and completions, which includes the practice known as hydraulic fracturing or “fracking”.

WHEREAS, fracking is a process used to stimulate oil and gas production during the completion process after an oil or gas well has been drilled. Its purpose is to improve the productivity and ultimate recovery of a well by creating a pathway from the productive formation to the well bore. A typical fracking operation may involve several million gallons of fluid that is approximately 90% water, and 10% “proppant” (or sand) and chemical agents.

During the completion process these fluids are pumped into the well under high pressure. The “flow back” of the fracturing solution and material from the formation can either be collected in lined pits, or in impermeable tanks that are part of a “closed loop system”. The fracturing solution is usually brought to and taken away from a well site in large trucks. If existing roads are not available or adequate, new roads will be created. Drill pads must be built, and large drilling and production platforms erected on site. While a single well may be drilled at a well site, it has become increasingly common for multiple wells to be drilled and completed at a well site, often involving multiple completions which may last many weeks or months. Oil and gas

1 drilling and completion can be an around-the-clock activity that involves significant noise, dust,  
2 and artificial light.

3 WHEREAS, oil and natural gas development and production are known to produce a  
4 variety of physical and chemical hazards that may cause negative health effects if they are not  
5 properly mitigated. For example, in September 2010, the faculty and staff of the Department of  
6 Environmental and Occupational Health, Colorado School of Public Health (“CSPH”) published  
7 a report which outlined potential environmental hazards, vulnerable populations, and possible  
8 health outcomes arising from oil and gas exploration and development. The study focused on the  
9 increased level of oil and gas activities in Garfield County, Colorado, and found that air  
10 monitoring in Garfield County had documented levels of some toxins in ambient air that  
11 increased the risks of negative health effects for nearby citizens. The report also found that  
12 adverse effects on air, soil, water, traffic patterns and noise levels could occur and negatively  
13 affect citizens and the environment. *Roxana Witter, et al., Health Impact Assessment for*  
14 *Battlement Mesa, Garfield County, Colorado* (September 2010)

15 WHEREAS, a recent multi-species analysis of daily air samples was conducted by the  
16 National Oceanic and Atmospheric Administration’s Boulder Atmospheric Observatory  
17 (“BAO”) in Weld County near the Town of Erie. The study found that methane, propane, and  
18 butane -- commonly referred to as “light alkanes” -- were several times higher on average than  
19 values obtained in Pasadena, California. Citizens in Erie responded to the NOAA Report by  
20 asking oil and gas operators to permit the town to test for water and air contaminates in the  
21 vicinity of their operations. *Petron, et al. Hydrocarbon Emissions Characterization in the*  
22 *Colorado Front Range—A Pilot Study* (March 2012); *Steven S. Brown, 2011 Air Chemistry*  
23 *Study at the Boulder Atmospheric Observatory* (2012)

24 WHEREAS, another recent study has noted that residents living within one-half mile or  
25 less from wells are at greater risk for health defects from oil and gas development than are  
26 residents who live more than one-half mile from the wells. The 2012 study by the Colorado  
27 School of Public Health, University of Colorado, Anschutz Medical Campus urged that efforts  
28 should be directed towards reducing air emission exposures for persons living and working near  
29 oil and gas wells during well completions. The report also noted that “[a]ssessments in Colorado  
30 have concluded that ambient benzene levels demonstrate an increased potential risk of  
31 developing cancer as well as chronic and acute non-cancer health effects in Garfield County,

1 Colorado where [natural gas development] is the only major industry other than agriculture.”  
2 *McKenzie LM, et al. Human Health Risk Assessment of Air Emissions from Development of*  
3 *Unconventional Natural Gas Resources*, Sci Total Environ (2012).

4 WHEREAS, the Front Range of Colorado in recent years has not met United States  
5 Environmental Protection Agency (“EPA”) standards for ozone pollution during certain months  
6 of the year, and is considered to be a non-attainment area. Ozone-forming air pollution  
7 measured along the Front Range shows similarities to ozone problems that occur in growing oil  
8 and gas exploration areas of western Wyoming and eastern Utah. Studies in both Wyoming and  
9 Utah are ongoing to determine the cause and potential impacts of the ozone conditions.

10 <http://deq.state.wy.us/aqd/Ozone%20Nonattainment%20Information.asp>

11 WHEREAS, on April 17, 2012 the EPA issued flexible, cost-effective regulations to  
12 reduce harmful air pollution from the oil and natural gas industry. The rules include the first  
13 federal air standards for natural gas wells that are hydraulically fractured, along with  
14 requirements for several other sources of pollution in the industry that are not currently not  
15 regulated at the federal level. A key component of the regulations is the reduction in VOCs  
16 emitted through the use of green completion techniques to capture natural gas that escapes into  
17 the air.

18 <http://www.epa.gov/airquality/oilandgas/actions.html>

19 WHEREAS, a study released in 2012 by the Energy Institute of the University of Texas  
20 at Austin concluded that there is no direct connection between hydraulic fracturing of shale  
21 formations and reports of groundwater contamination. The study found that contamination issues  
22 ascribed to hydraulic fracturing are typically related to processes common to oil and gas  
23 operations, such as casing failures or poor cement jobs. Many reports of contamination can also  
24 be traced to above-ground spills or other mishandling of wastewater produced from shale gas  
25 drilling.

26 [http://energy.utexas.edu/index.php?option=com\\_content&view=article&id=151&Itemid=160](http://energy.utexas.edu/index.php?option=com_content&view=article&id=151&Itemid=160)

27 WHEREAS, a recent report by the EPA found that groundwater pollution in domestic  
28 water supplies near Pavillion, Wyoming was likely related to hydraulic fracturing. There have  
29 been reports claiming that water resources in Weld County and western Colorado, in Canada,  
30 Ohio, Pennsylvania and New York and other states, have been contaminated by oil and gas  
31 exploration, including hydraulic fracturing.

1       <http://yosemite.epa.gov/opa/admpress.nsf/0/EF35BBD26A80D6CE3852579600065C94E>

2           WHEREAS, spills and releases of oil, gas and associated products occur in Colorado  
3 frequently, on average more than one each day according to statistics maintained by the  
4 Colorado Oil and Gas Conservation Commission (“COGCC”).

5       [http://www.denverpost.com/search/ci\\_18881512](http://www.denverpost.com/search/ci_18881512) Contamination has been identified at several  
6 wells that were drilled within the City limits. Benzene levels at the Rider No. 1 Well near Trail  
7 Ridge Middle School have exceeded the legal limits for benzene concentrations since 2006 and  
8 still exceed those limits. High levels of benzene, naphthalene, ethylbenzene, and gasoline- and  
9 diesel-organics were detected in soil and ground water tests conducted in January 2012 at the  
10 Stamp Well, which is located approximately 500 feet west of Union Reservoir. It has been  
11 determined that there are approximately 45,000 wells in Colorado and 15 inspectors who enforce  
12 the COGCC rules. On average, each inspector is responsible for about 3,000 wells, meaning that  
13 a well is inspected about once every three years.

14          WHEREAS, oil and gas development and production, particularly in association with  
15 horizontal drilling and hydraulic fracturing, entails industrial processes that may occur in close  
16 proximity to populated areas of the City for many years to come. In addition to the noted health  
17 and pollution concerns, there will also be increased heavy truck traffic on City roads, as well as  
18 likely increased demand for emergency and other City services, which will come at a cost to the  
19 City.

20          WHEREAS, the City has authority pursuant to C.R.S. §31-15-401, §§29-20-101 *et seq.*,  
21 34-60-101 *et seq.*, 30-28-101 *et seq.*, and Colorado Constitution Article XX, Section 6, to adopt  
22 reasonable rules and regulations that govern oil and gas development. Cities and counties in  
23 Colorado have always had authority to protect their citizens and to zone and regulate land uses,  
24 including oil and gas operations, which are simply another industrial land use. As with many  
25 aspects of local authority, unless the State Legislature has specifically and clearly provided that a  
26 local government may not act, it retains that authority.

27          WHEREAS, oil and gas facilities are already subject to City review under the Land  
28 Development Code (“Title 15 of the Longmont Municipal Code”), which were adopted in 2000.  
29 The proposed amendments to the City’s 12-year old oil and gas regulations are intended to allow  
30 oil and gas development, to insure adequate review of proposed oil and gas facilities within the  
31 City’s jurisdiction, and to provide adequate protection to the City’s citizens and resources to the

1 extent allowed by law. Local government regulation of the impacts of oil and gas operations has  
2 been on-going for many years, with local governments successfully exercising that authority by  
3 issuing permits for thousands of oil and gas operations around the state. The exercise of this  
4 local authority has not slowed the number of issued local or state permits for oil and gas  
5 operations, which continue to rise. The Colorado Supreme Court has determined that local  
6 governments are not expressly or impliedly “preempted” from regulating oil and gas activities  
7 through their local land use and police power authority. However, the courts have determined  
8 that state law preempts local regulation where the local regulation materially impedes, frustrates  
9 or destroys the state interest in oil and gas activities, and there is no possible construction of the  
10 local regulation which can be harmonized with the state regulatory scheme of the COGCC.

11 WHEREAS, the City’s regulations are intended to address the health, safety and land use  
12 associated with these operations, to protect the health, safety and welfare of the citizens of the  
13 City, and to exercise the City’s land use and police power authority to the full extent of the law.  
14 At the same time the regulations recognize that the City, under current Colorado laws, may not  
15 enact rules which would “materially impede or destroy the [COGCC’s] interest” in regulating oil  
16 and gas development and operations. The City’s regulations respect the current status of the law,  
17 while at the same time they implement proven and accepted best management practices which  
18 are widely used by the oil and gas industry in the State of Colorado. For instance, it has been  
19 estimated that a high percentage of all oil and gas wells that are completed in Colorado are  
20 located at a distance of more than 1,000 feet from any occupied structure. Based upon  
21 information provided to the COGCC, closed loop systems and other “environmentally friendly”  
22 drilling and completion techniques have been incorporated into a large majority of recent oil and  
23 gas activities. The regulations embrace these practices and encourage companies to use them on  
24 any new operations within the City.

25 WHEREAS, the City has undertaken an exhaustive process to create its updated  
26 regulations. Starting in the fall of 2011, City Council, staff and retained experts have held  
27 numerous study sessions, public meetings, open houses, and informational discussions with  
28 many stakeholder groups, including: Longmont citizens, the Colorado Oil and Gas Association  
29 (“COGA”), representatives of several oil and gas operators who operate wells in Longmont or  
30 may do so in the near future, staff from the COGCC, and others.

31 WHEREAS, the initial draft of these regulations was presented to the public and other

1 stakeholders in February 2012. Revisions have been made to the initial draft based upon written  
2 or verbal comments received by staff and the City Council. Many hundreds of hours of staff and  
3 Council time have been dedicated to this project, which reflects the City's best effort to exercise  
4 its powers within the confines of its constitutional and statutory authority to do so.

5

6 THE COUNCIL OF THE CITY OF LONGMONT, COLORADO, ORDAINS:

7 Section 1

8 In this Ordinance, ellipses indicate material not reproduced as the Council intends to  
9 leave that material in effect as it now reads.

10

11 Section 2

12 The Council repeals and replaces § 15.04.020(B)(32) of the Longmont Municipal Code to  
13 read as follows:

14

15 32. Oil and Gas Operations and Facilities.

16

17 a. Purpose Statement.

18 i. The purpose of this section is to facilitate the exploration and production  
19 of oil and gas resources within the City in a responsible manner. The City has a  
20 recognized, traditional authority and responsibility to regulate land use within its  
21 jurisdiction, including oil and gas drilling, to provide for the orderly development and  
22 protection of the community. These regulations are intended as an exercise of this land  
23 use authority and the police power.

24 ii. These regulations are enacted to preserve the rights and privileges of  
25 surface and mineral estate owners and lessors, while ensuring the health, safety, and  
26 general welfare of the present and future residents of Longmont and surrounding areas  
27 and the preservation and protection of wildlife and the environment. The City's goal is to  
28 work cooperatively with oil and gas applicants and operators, affected individuals, groups  
29 or institutions, the Colorado Oil and Gas Conservation Commission, and other municipal,  
30 county, state and federal agencies and interested parties to ensure that potential land use  
31 and environmental conflicts are adequately addressed and mitigated.

1  
2        b.     Authority. This section is adopted pursuant to C.R.S.A § 31-15-401, Colorado  
3 Constitution Article XX, § 6 and C.R.S. §§ 29-20-11 et seq., 34-60-101 et seq., and 30-28-101 et  
4 seq. These standards are not intended to supersede state and federal laws, regulations, and rules  
5 pertaining to oil and gas development, but rather are meant to supplement those requirements  
6 where appropriate.

7  
8        c.     Applicability.

9              i.     All oil and gas well operations and facilities within the City both on the  
10 surface and below the surface are subject to the requirements of this section. In the event  
11 that the provisions of this section conflict with any other provisions of the code, this  
12 section shall supercede as it applies to oil and gas well operations and facilities.

13              ii.    In instances of directional and horizontal drilling where surface operations  
14 associated with a well occur outside of the City limits but subsurface operations occur  
15 within the City limits, the operator shall be required to comply with the applicable  
16 process and standards contained in this section and the City will provide comments to the  
17 COGCC through the LGD consultation process in conjunction with the COGCC permit  
18 application.

19              iii.   City oil and gas well permits issued pursuant to this section shall  
20 encompass within its authorization the right of the operator, its agents, employees,  
21 subcontractors, independent contractors, or any other person to perform that work  
22 reasonably necessary to conduct the activities authorized by the permit, subject to all  
23 other applicable City regulations and requirements.

24              iv.    City oil and gas well permits may be issued for sites within the City  
25 excluding oil and gas well surface operations and facilities in residential zoning districts.  
26 For purposes of this section, residential zoning shall include residential and mixed use  
27 planned unit development (PUD) districts and mixed use (MU) zoning districts that  
28 included existing or planned residential uses. Any proposed oil and gas well location not  
29 complying with the requirements of this subsection, may apply for an operational conflict  
30 special exception according to the procedures in this section. Oil and gas waste disposal  
31 facilities, including injection wells for disposal of oil and gas exploration and production

1 wastes, commercial disposal facilities, centralized E&P waste management facilities, and  
2 subsurface disposal facilities are classified as heavy industrial uses and are limited to  
3 applicable industrial zoning districts.

4

5 d. Exceptions.

6 i. Oil and gas well facilities that are in existence on the effective date of this  
7 subsection or that are located within territory which thereafter is annexed to the City may  
8 continue operating without the issuance of a City oil and gas well permit. A City oil and  
9 gas well permit is required for any such grandfathered well prior to any of the following:  
10 oil and gas well location expansion, new wells on the well site, and operations including  
11 completing, recompleting, hydraulic fracturing, sidetracking, or twinning of a well.  
12 Existing oil and gas well and production facilities shall not be considered  
13 nonconforming in terms of setback requirements where development has encroached  
14 within the required setbacks. The right to operate oil and gas well facilities terminates if  
15 the use thereof is discontinued for six months or more, other than by temporary  
16 abandonment or shut-in which is in conformance with COGCC rules.

17 ii. Accessory equipment and pumping systems that are in existence on the  
18 effective date of this subsection or are located within territory which thereafter is annexed  
19 to the City may continue operating without the issuance of a City oil and gas well permit.  
20 Any renovation or repair of nonconforming accessory equipment or pumping systems  
21 shall be permitted without a City oil and gas well permit, provided the work does not  
22 increase the degree of nonconformity. Any replacement of existing accessory equipment  
23 or any addition of accessory equipment shall conform to this section subject to the  
24 applicable review process in this section. The replacement or addition of individual tanks,  
25 treaters, or separators shall not require the remaining accessory equipment in an oil and  
26 gas well location to conform to the development standards in this section.

27

28 e. Prohibitions.

29 The following oil and gas facilities are prohibited within the City of Longmont.  
30 i. Temporary housing at an oil and gas well location, including trailers,  
31 recreational vehicles, and similar temporary structures.

1  
2       f.     Definitions.

3              For the purposes of these oil and gas well regulations only, term definitions are  
4              included at the end of this section.

5  
6       g.     General Provisions.

7            i.      Application Process.

8  
9              (a)     Applications subject to administrative review. The following are  
10             subject to administrative review:

11              (1)     Oil and gas wells operations and facilities that comply with  
12             all minimum and recommended standards in this section are subject to  
13             limited use site plan review.

14              (2)     Seismic survey operations are subject to administrative  
15             review, except that seismic survey operations on City owned property may  
16             be subject to City Council approval.

17              (3)     Pipelines that cross public property are subject to a work in  
18             right-of-way permit review.

19              (b)     Applications subject to public hearing review. The following are  
20             subject to public hearing review:

21              (1)     Oil and gas well operations and facilities that meet  
22             minimum standard requirements and some or none of the recommended  
23             standards listed in this section are subject to conditional use site plan  
24             review.

25              (2)     The following oil and gas facilities are subject to  
26             conditional use site plan review:

27              (i)      Injection wells for disposal of oil and gas  
28             exploration and production wastes;

29              (ii)     Commercial disposal facilities;

30              (iii)    Centralized E&P waste management facilities;

31              (iv)     Subsurface disposal facilities;

(v) Other oil and gas facilities permitted by COGCC and not described above;

(3) Variances and operational conflicts special exceptions.

**h. Submittal Requirements.**

Applications for a limited use or conditional use site plan for oil and gas well operations and facilities under this subsection shall contain all relevant information required for limited use and conditional use site plan applications contained in Appendix B of this development code and the specific information for oil and gas well operations and facilities contained in Table 8 in Appendix B of this development code.

i. Issuance of oil and gas well permit for unsubdivided property. A City oil and gas well permit for may be granted on unsubdivided property without requiring the property to be subdivided.

j. Notice and procedures.

i. Limited use review. Applications for limited use review of oil and gas well operations and facilities are subject to the notice requirements of Section 15.02.040(H) and the minor application procedures requirements of Section 15.02.080.

ii. Conditional use review. Applications for conditional use review of oil and gas well operations and facilities are subject to the notice requirements of Section 15.02.040(H) and the major application procedure requirements of Section 15.02.050

k. Review Criteria.

i. Limited use review. Applications for limited use review are subject to the limited use and site plan review criteria in Sections 15.02.090(E)(3) and 15.02.090(F)(5) respectively, in addition to the development standard compliance criteria listed below.

ii. Conditional use review. Applications for conditional use review are subject to the conditional use and site plan review criteria in Sections 15.02.060(D)(2) and 15.02.090(F)(5), respectively, in addition to the development standard compliance criteria listed below.

- 1
- 2       l.      Compliance with development standards.
  - 3           i.      Applications for limited use review shall comply with all standards,
  - 4            including recommended standards in this section.
  - 5           ii.     Applications for conditional use review shall comply with the minimum
  - 6            standards in this section, unless a variance or special exception is granted by the
  - 7            decision making body, as well as conditions of approval specified in the
  - 8            conditional use agreement.
- 9
- 10       m.     Variances and Operational Conflicts Special Exceptions.
  - 11           i.      Variance requests.
    - 12           (a)     Variance requests to the standards of this section may be requested
    - 13            by the applicant. All applications where a variance is requested shall be processed
    - 14            in accordance with the standards and procedures outlined in section
    - 15            15.02.060(F)(6) for variances.
    - 16           (b)     Requests for variances may include, but not be limited to, one or
    - 17            more of the following factors:
      - 18           (1)     Topographic characteristics of the site;
      - 19           (2)     Duration of use of the facility;
      - 20           (3)     Proximity of occupied structures to the facility;
      - 21           (4)     Ownership status of adjacent and/or affected land;
      - 22           (5)     Construction of adequate infrastructure to serve the project;
      - 23           and
      - 24           (6)     Planned replacement and/or upgrading of facility
      - 25           equipment.
    - 26           (c)     If the decision making body finds, based upon competent evidence
    - 27            in the record, that compliance with the regulations of this division is impractical, a
    - 28            variance may be granted by the decision making body permanently or for a period
    - 29            of defined duration.
  - 30           ii.     Operational conflicts special exception.

(a) Special exceptions to the standards of this section may be granted where the actual application of requirements of this section conflicts in operation with the requirements of the Oil and Gas Conservation Act or implementing regulations.

(b) All applications where a special exception due to operational conflicts is requested shall be processed as a public hearing and reviewed in a noticed public hearing by the decision making body acting in a quasi-judicial capacity.

(c) The applicant shall have the burden of pleading and proving an actual, material, irreconcilable operational conflict between the requirements of this section and the State's interest in oil and gas development in the context of a specific application.

(d) For purposes of this section, an operational conflict exists where actual application of a City condition of approval or regulation conflicts in operation with the state statutory or regulatory scheme, and such conflict would materially impede or destroy the State's interest in fostering the responsible, balanced development and production and utilization of the natural resources of oil and gas in the State of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources, and no possible construction of the regulation in question could be found that would harmonize it with the state regulatory scheme.

(e) Additional City requirements in areas regulated by the COGCC, which fall within City land use and police powers and which are necessary to protect the public health, safety and welfare under the facts of the specific application presented, and which do not impose unreasonable burdens on the applicant and which do not materially impede the state's goals, shall be presumed not to present an operational conflict.

(f) If the decision making body finds, based upon competent evidence in the record, that compliance with the requirements of this section shall result in an operational conflict with the state statutory and regulatory scheme, a special

1 exception to this section may be granted, in whole or in part, but only to the extent  
2 necessary to remedy the operational conflict.

3 (g) The decision making body may condition the approval of a special  
4 exception as necessary to protect the public health, safety and welfare by  
5 mitigating any adverse impacts arising from the grant of approval. Any such  
6 condition shall be designed and enforced so that the condition itself does not  
7 conflict with the requirements of the COGCC.

8 (h) A final decision by the City on the exception request is subject to  
9 judicial review pursuant to Rule 106(a)4 of the Colorado rules of civil procedure.

10 n. Third Party Technical Review.

11 i. Upon determination that the application is complete, the City may require  
12 that the application materials, including requests for minor modifications, variances, and  
13 operational conflicts special exceptions, be submitted to a technical consultant deemed by  
14 the City to be appropriate and necessary to complete the review.

15 ii. Reasonable costs associated with such review shall be paid by the  
16 applicant.

17 o. Sales and Use Tax License Requirement.

18 i. Operators shall obtain and maintain a City sales and use tax license prior  
19 to commencing operations.

20 ii. Operators must conform to applicable provisions of Chapter 6.04 of the  
21 Longmont Municipal Code related to licensing.

22 p. Building Permit Requirement.

23 The operator shall obtain building permits prior to the construction of any above  
24 ground structures to the extent required by the City building and fire codes then in effect.

25 q. Approval Period.

1                   Approval of limited use or conditional use applications for oil and gas well  
2 operations and facilities are valid for two years from the date of approval until the start of  
3 the operation, unless the decision making body grants a longer approval period.  
4

5                   r.         Extensions.

6                   Requests for extensions to the approval period for oil and gas well operations and  
7 facilities shall be reviewed according to the procedures outlined in Section 15.02.040(O).

8                   s.         Issuance of Oil and Gas Well Permit. The following items are required by the  
9 City prior to issuance of a City oil and gas well permit:

10                  i.         Approval of a limited use site plan or conditional use site plan, as  
11 applicable.

12                  ii.        Satisfaction of any conditions of approval of the above applications prior  
13 to commencement of operations.

14                  iii.       Copies of:

15                      (a)       Applicable executed agreements,

16                      (b)       Applicable transportation related permits,

17                      (c)       A City sales and use tax license,

18                      (d)       Required liability insurance, and

19                      (e)       All necessary state or federal permits issued for the oil and gas  
20 well operation and facilities.

21                  iv.        Financial securities, or payment of fees, as applicable.

22

23                  t.         Right to Enter / Inspections.

24                  i.         Right to Enter - For the purpose of implementing and enforcing this  
25 section, duly authorized City personnel or contractors may enter onto subject property  
26 upon notification of the permittee, lessee or other party holding a legal interest in the  
27 property. If entry is denied, the City shall have the authority to discontinue application  
28 processing, revoke City approved permits and applications, or to obtain an order from a  
29 court of competent jurisdiction to obtain entry.

30                  ii.        Operator contact - The applicant shall provide the telephone number of a  
31 contact person who may be reached 24 hours a day for purposes of being notified of any

1 proposed City inspection under this Section or in case of emergency. Any permitted oil  
2 and gas operations and facilities may be inspected by the City at any time, to ensure  
3 compliance with the requirements of the City approved permit, provided that at least one  
4 hour's prior notice is given to the contact person at the telephone number supplied by the  
5 applicant. Calling the number (or leaving a message on an available answering machine  
6 or voice mail service at the number) at least one hour in advance of the proposed  
7 inspection shall constitute sufficient prior notice if the contact person does not answer.  
8 By accepting an approved City oil and gas well permit, the applicant grants consent to  
9 such inspections. The cost of any City inspection deemed reasonable and necessary to  
10 implement or enforce the regulations for the applicant shall be borne by the applicant,  
11 provided such inspections and fees are not in conflict with COGCC inspections and rules.

12

13 u. Enforcement and Penalties.

14 i. Oil and gas operators working without or not in compliance with a City oil  
15 and gas well permit.

16 Any operator engaging in oil and gas well operations who does not obtain a City  
17 oil and gas well permit pursuant to these regulations, who does not comply with City oil  
18 and gas well permit requirements, or who acts outside the jurisdiction of the City oil and  
19 gas well permit may be enjoined by the City from engaging in such oil and gas well  
20 operations and may be subject to such other criminal or civil liability as may be  
21 prescribed by law. If the City prevails in whole or part in any action, the operator shall  
22 pay all reasonable attorney fees and expert costs incurred by the City.

23 ii. Suspension of City oil and gas well permit.

24 If the City determines at any time that there is a violation of the conditions of the  
25 City oil and gas well permit or that there are material changes in an oil and gas operation  
26 or facility as approved by the permit, the development services manager or designee may,  
27 for good cause temporarily suspend the City oil and gas well permit. In such case, upon  
28 oral or written notification by the development services manager or designee, the  
29 operator shall cease operations immediately. The development services manager or  
30 designee shall forthwith provide the operator with written notice of the violation or  
31 identification of the changed condition(s). The operator shall have a maximum of fifteen

(15) days to correct the violation. If the violation is not timely corrected, the permit may be further suspended pending a revocation hearing. The operator may request an immediate hearing before the Planning and Zoning Commission regarding the suspension. The Planning and Zoning Commission shall hold the hearing within ten (10) days of the operator's written request.

iii. Revocation of City oil and gas well permit.

The Planning and Zoning Commission may, following notice and hearing, revoke a City oil and gas well permit granted pursuant to these regulations if any of the activities conducted by the operator violate the conditions of the City oil and gas well permit or these regulations, or constitute material changes in the oil and gas operation approved by the City. No less than fourteen (14) days prior to the revocation hearing, the City shall provide written notice to the permit holder setting forth the violation or the material changes and the time and date for the revocation hearing. Notice of the revocation hearing shall be published in a newspaper of general circulation not less than five (5) days prior to the hearing. Following the hearing, the City may revoke the oil and gas permit or may specify a time by which action shall be taken to correct any violations of the oil and gas permit to avoid revocation.

iv. Transfer of permits.

A City oil and gas well permit may be transferred only with the written consent of the City. The City shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the City oil and gas well permit and these regulations, that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public, and the environment; and that an adequate guaranty of financial security related to the City approved permit can be timely made.

v.      Judicial review.

A final decision by the City on a City oil and gas well permit is subject to judicial review pursuant to Rule 106(a)(4) of the Colorado rules of civil procedure.

v. General Development Standards.

The following sections provide minimum and/or recommended standards that will apply to any oil & gas well operations and production facilities, and shall be in addition to any applicable state and federal standards. Use of consolidated well pads and directional and horizontal drilling when and where appropriate, closed loop (“pitless”) systems, appropriate water quality monitoring systems, and other techniques, including current and available best management practices, are intended to protect the integrity of the surface estate and subsurface resources and ensure the health, safety, and general welfare of the present and future residents of Longmont and surrounding areas and the preservation and protection of wildlife and the environment.

i. Compliance with State and Federal Regulations, Rules, Orders and Conditions.

In addition to the provisions contained in these regulations, oil and gas operations and facilities within the City of Longmont shall comply with all applicable state and federal regulations, rules, orders and conditions.

ii. Multi Well Sites and Directional/Horizontal Drilling.

Oil and gas well operations and facilities will be consolidated on multi well sites and directional and horizontal drilling techniques will be used whenever possible and appropriate. In determining appropriateness, the benefits of consolidation and the use of directional and horizontal drilling, such as drilling from outside of a prohibited zoning district, minimizing surface disturbance and traffic impacts and increasing setbacks, will be weighed against the potential impacts of consolidated drilling and production activities on surrounding properties, wildlife and the environment.

iii. Well Facilities Siting.

Oil and gas well facilities and operations shall be located and designed to minimize impacts on surrounding uses, including residential areas, schools, medical facilities, churches, day care and retirement centers, and other places of public assembly, and natural features such as distinctive land forms, vegetation, river or stream crossings, ridgelines and vistas, City-owned and City-designated open space areas, and other designated landmarks to the maximum extent practical. Efforts shall be made to avoid adversely impacting the well spacing

1 requirements of the COGCC or the ability of the oil and gas well operator to  
2 develop the resource. Facilities should be located at the base of slopes where  
3 possible and access roads should be aligned to follow existing grades and  
4 minimize cuts and fills.

5 iv. Cultural Resources.

6 Applications for all oil and gas well facilities and operations may require a  
7 cultural resources report, as determined by the City. The report, if required, will  
8 be prepared by a qualified professional, and meet state of Colorado requirements,  
9 including a complete written description and identification of the cultural  
10 resources on the site and within the surrounding area of the proposed oil and gas  
11 well facility and will include mitigation measures, if necessary, to ensure that  
12 appropriate actions are taken to avoid or minimize negative impacts to the  
13 maximum extent practical.

14 v. Drainage.

15 Oil and gas well operations and facilities shall comply with applicable  
16 City drainage requirements and standards.

17 vi. Hazard Areas.

18 Oil and gas well operations and facilities in hazard areas, including  
19 floodplains and man-made (e.g., airport) conditions, and in other areas where such  
20 operations would constitute a hazard to public health and safety or to property  
21 should be avoided. Land should not be developed for oil and gas well facilities  
22 and operations until hazards have been identified and avoided, removed, or until  
23 the applicant can show that the impact of the hazard(s) can be mitigated to the  
24 maximum extent practical. All well facilities and operations conducted within a  
25 floodplain shall comply with title 20 of the Longmont Municipal Code pertaining  
26 to floodplain regulations.

27 vii. Emergency Preparedness.

28 Oil and gas well operations and facilities shall provide the City with an  
29 acceptable written emergency response plan for the potential emergencies that  
30 may be associated with the operation of the facilities. This shall include, but not  
31 be limited to, any or all of the following:

(a) Explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, and hazardous material vehicle accidents or spills.

(b) Operation-specific emergency preparedness plans are required for any oil and gas operation that involves drilling or penetrating through known zones of hydrogen sulfide gas.

(c) The plan shall include a provision for the operator to reimburse the appropriate emergency response service provider for costs incurred in connection with the emergency.

## viii. Hazardous Materials.

Full disclosure, consistent with COGCC requirements, including material safety data sheets of all hazardous materials that will be transported on any public or private roadway within the City for the oil and gas operation, shall be provided to the Longmont hazards prevention office. This information will be treated as confidential and will be shared with other emergency response personnel only on an as needed basis.

ix. Safety/Security.

The operator of oil and gas facilities shall comply with COGCC requirements for initial and ongoing site security and safety measures. Such requirements shall adequately address security fencing, the control of fire hazards, equipment specifications, structural stabilization and anchoring, and other relevant safety precautions.

x. Maintenance and General Operation.

(a) The operator shall at all times keep the wellsites, roads, rights-of-way, facility locations, and other oil and gas operations areas safe and in good order, free of noxious weeds, litter and debris.

(b) The operator shall dispose of all water, unused equipment, litter, sewage, waste, chemicals and debris off of the site at an approved disposal site.

(c) The operator shall promptly reclaim and reseed all disturbed sites in conformance with COGCC rules.

## xi. Indemnification.

1           Each City oil and gas well permit issued by the City shall include the  
2 following language: "Operator does hereby expressly release and discharge all  
3 claims, demands, actions, judgments, and executions which it ever had, or now  
4 has or may have, or its successors or assigns may have, or claim to have, against  
5 the City and/or its departments, its agents, officers, servants, successors, assigns,  
6 sponsors, volunteers, or employees, created by, or arising out of personal injuries,  
7 known or unknown, and injuries to property, real or personal, or in any way  
8 incidental to or in connection with the actions or inactions of the Operator or its  
9 agents, or caused by or arising out of, that sequence of events which occur from  
10 the Operator's or its agents actions or inactions. The Operator shall fully defend,  
11 protect, indemnify, and hold harmless the City and/or its departments, agents,  
12 officers, servants, successors, assigns, sponsors, or volunteers, or employees from  
13 and against each and every claim, demand, or cause of action and any and all  
14 liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and  
15 expenses incurred in defense of the City and/or its departments, its agents,  
16 officers, servants, successors, assigns, sponsors, volunteers, or employees,  
17 including, without limitation, personal injuries and death in connection therewith  
18 which may be made or asserted by Operator, its agents, assigns, or any third  
19 parties on account of, arising out of, or in any way incidental to or in connection  
20 with the performance of the work performed by the Operator under any permit,  
21 and the Operator agrees to indemnify and hold harmless the City and/or its  
22 departments, its agents, officers, servants, successors, assigns, sponsors,  
23 volunteers, or employees from any liabilities or damages suffered as a result of  
24 claims, demands, costs, or judgments against the City and/or, its departments, its  
25 agents, officers, servants, successors, assigns, sponsors, volunteers, or employees,  
26 created by, or arising out of their acts or omissions occurring on the drill site or  
27 operation site or in the course and scope of inspecting, permitting or monitoring  
28 the oil/gas wells. Liability for any action or inaction of the City is limited to the  
29 maximum amount of recovery under the Colorado Governmental Immunity Act."  
30       xii.     Financial Securities/Liability Insurance.  
31           a.       Minimum standard.

### (1) Performance security.

The applicant may be required to provide reasonable performance security to the City through a minor improvement security agreement as outlined in Section 15.02.120(A)(1)(b), in an amount to be determined by the City and in a form acceptable to the City as outlined in 15.05.210(B) to ensure compliance with the City oil and gas well permit and with the requirements set forth in this section. Conditions of approval covered by this performance security shall consist of measures addressing specific impacts affecting the general public and any damage to public infrastructure. Reclamation and other activities which fall under COGCC jurisdiction are exempted from this performance guarantee coverage.

(2) Liability insurance.

For any oil or gas well facility permitted under this section, the applicant shall submit a certificate of insurance to the economic development department, showing that a policy of comprehensive general liability insurance or a self-insurance program approved by the Colorado Insurance Commission, in the amount of no less than one million dollars (\$1,000,000) per occurrence, insuring the applicant against all claims or causes of action made against the applicant for damages arising out of the oil or gas well operations. The policy shall be written by a company authorized to do business in the state of Colorado, unless the applicant provides evidence to the City that the applicant is adequately self-insured. The certificate shall require at least thirty (30) days' notice to the city prior to termination of coverages for any reason.

b. Recommended standard.

### (1) Performance security.

The applicant may be required to provide reasonable performance security to the City through a minor improvement security agreement as outlined in Section 15.02.012(A)(1)(b), in an amount to be determined by the City and in a form acceptable to the City to ensure compliance with requirements set forth in this section and specific conditions in the City oil

1 and gas permit. Conditions of approval covered by this performance  
2 security shall consist of measures addressing specific impacts that may  
3 affect the general public and any damage to public infrastructure.

4       xiii. Impact fees.

5           Every permit issued by the City under this section shall require the  
6 applicant or operator to pay a fee that is sufficient to pay for all impacts which  
7 the proposed operation will cause to facilities owned or operated by the City or  
8 used by the general public, including, but not limited to: repair and maintenance  
9 of roads, bridges and other transportation infrastructure; improvements made or to  
10 be made by the City to accommodate the operations and to protect public health,  
11 safety and welfare; costs incurred to process and analyze the application,  
12 including the reasonable expenses paid to independent experts or consultants; and  
13 impact fees comparable to those charged to other businesses or industries who  
14 operate within the City which are not specifically mentioned herein, and other  
15 impacts. The City shall establish a mechanism to assess and obtain payment of  
16 such fees, subject to the right of the City to request additional funds if the fees  
17 prove to be insufficient, or to refund surplus funds to the operator if the fees paid  
18 exceed the true cost of the impacts.

19       xiv. Operation Plan.

20           Applications for all oil and gas well facilities and operations will include  
21 an operation plan, which should, at a minimum, include the operator's method  
22 and schedule for drilling, well completion, transportation, resource production,  
23 and post-operation activities.

24  
25       w. Specific Development Standards

26           i. Setbacks/Location of Wells and Production Facilities from Structures,  
27 Platted Residential Lots, Parks, Sports Fields and Playgrounds, and Designated Outside  
28 Activity Areas.

29           (a) Recommended standard.

30           Wells and production facilities shall be 750 feet or more from any  
31 occupied building or occupied building permitted for construction, platted

residential lots, or park, sports field, playground or designated outside activity area.

ii. Setbacks/Location of Proposed Structures, Platted Residential Lots, Parks, Fields and Playgrounds, Designated Outside Activity Areas, Public Roads, and Above Ground Utility Lines from Existing Wells and Production Facilities.

Proposed occupied structures, platted residential lots, sports fields and playgrounds, and designated outside activity areas shall be located 750 feet or more from existing oil and gas wells and production facilities. Proposed unoccupied structures shall comply with local fire code requirements. Proposed public roads and major above ground utility lines shall be located 150 feet or more from existing oil and gas wells and production facilities

iii. Setbacks/Location of Proposed Structures, Platted Residential Lots, Sports Fields and Playgrounds from Plugged and Abandoned or Dry and Abandoned Wells.

Proposed occupied structures or additions, sports fields or playgrounds shall be located 150 feet or more from existing plugged and abandoned or dry and abandoned oil and gas wells. Proposed unoccupied structures shall be located 50 feet or more from existing plugged and abandoned or dry and abandoned wells. No proposed residential lots shall include any portion of plugged and abandoned or dry and abandoned oil and gas wells.

#### iv. Visual Mitigation.

### (a) Analysis.

Applications for all oil and gas facilities may be required to include a visual impact analysis. The analysis, if required, shall include photographic simulations of the site from nearby public rights-of-way and locations as determined by the development services manager or designee and proposed impact mitigation measures as indicated below. The development services manager or designee will determine the appropriate land use(s) from which a photographic simulation of the site shall be provided based upon topography, existing vegetative and/or structural screening, and the linear distance from the proposed oil and gas facility to the respective land use(s).

(b) Mitigation.

(1) Methods for appropriate visual impact mitigation include, but are not limited to, use of low profile tanks, facility painting, vegetative or structural screening, berthing, or minor relocation of the facility to a less visible location on the respective site.

(2) On-site relocation may be necessary where the proposed facility would cause visual impacts to natural ridgelines, rock outcroppings, or other distinct geologic formations, provided relocation does not adversely impact the well spacing requirements of the COGCC or the ability of the oil and gas well operator to develop the resource.

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

## v. Noise

(a) Minimum standard.

Sound emission levels and mitigation, at a minimum shall be in accordance with the standards as adopted and amended by COGCC.

(b) Recommended standard.

(1) Sound emission levels shall be in accordance with the standards as adopted and amended by COGCC.

(2) The operator shall provide additional noise mitigation that may be required by the City. In determining such additional noise mitigation, specific site characteristics shall be considered, including, but not limited to, the following:

(i) Nature and proximity of adjacent development (design, location, type);

(ii) Prevailing weather patterns, including wind directions:

(iii) Vegetative cover on or adjacent to the site or topography.

(3) Further, based upon the specific site characteristics, the nature of the proposed activity, and its proximity to surrounding development, and type and intensity of the noise emitted, additional noise abatement measures above and beyond those required by the COGCC may be required by the City. The level of required mitigation may increase with the proximity of the facility to existing residences and platted subdivision lots and/or the level of noise emitted by the facility. One or more of the following additional noise abatement measures shall be provided by the operator if requested by the City:

(i) Acoustically insulated housing or covers enclosing any motor or engine;

(ii) Screening of the site or noise-emitting equipment by a wall or landscaping;

(iii) Solid wall of acoustically insulating material surrounding all or part of the facility;

(iv) A noise management plan specifying the hours of maximum noise and the type frequency, and level of noise emitted;

(v) Use of electric-power engines and motors, and pumping systems; and/or

(vi) Construction of buildings or other enclosures may be required where facilities create noise and visual impacts that cannot otherwise be mitigated because of proximity, density, and/or intensity of adjacent land use.

## vi.      Vibration.

All mechanized equipment associated with oil and gas wells and production facilities shall be anchored so as to minimize transmission of vibration through the ground according to COGCC rules.

vii. Lighting.

1                   All on-site lighting used in the construction of the well and its  
2 appurtenances shall comply with the COGCC Rule 803. All permanent lighting  
3 fixtures installed on the site shall comply with the City of Longmont lighting  
4 standards found in Section 15.05.140, Outdoor Lighting.

5                   viii. Water Protection.

6                   Rivers, streams, reservoirs, irrigation ditches, groundwater, wetlands and  
7 other water bodies are considered important water systems for the City. The value  
8 of both surface and ground water are significant and the City finds that protection  
9 of water resources is of primary importance, and must be adequately addressed by  
10 any applicant for an oil and gas facility permit.

11                  (a) Oil and gas well operations shall not adversely affect the quality or  
12 quantity of surface or subsurface waters. If the COGCC designates a water body  
13 as part of a public water system, oil and gas well operations shall be consistent  
14 with COGCC Rule 317.B Public Water System Protection.

15                  (b) Oil and gas well operations shall not adversely affect the water  
16 quality, quantity or water pressure of any public or private water wells.

17                  ix. Setbacks to Water Bodies.

18                  (a) Minimum standard.

19                   Oil and gas well operations and facilities and operations shall  
20 comply with setback requirements for river/stream corridors and riparian  
21 areas, and wetlands under Section 15.05.020(E). If the water body is  
22 associated with a designated outside activity area, the setback from the  
23 water body shall be consistent with the setback for the outside activity  
24 area. If the water body is classified as part of a public water system, oil  
25 and gas well operations shall be consistent with COGCC Rule 317.B  
26 Public Water System Protection.

27                  (b) Recommended standard.

28                   Oil and gas well operations and facilities shall be located 300 feet  
29 or more from the normal high water mark of any water body. If the water  
30 body is associated with a designated outside activity area, the setback from  
31 the water body shall be consistent with the setback for the outside activity

area. If the COGCC designates the water body as part of a public water system, oil and gas well operations shall be consistent with COGCC Rule 317.B Public Water System Protection.

x. Water Quality Testing and Monitoring.

(a) The applicant shall comply with COGCC water well testing and water-bearing formation protection procedures and requirements.

(b) If the City determines that additional water quality testing or monitoring is required, the applicant shall submit a water quality monitoring plan to the City for review and approval.

(c) The plan will outline a monitoring program to establish a baseline for and monitor water quality conditions and pollutants in surface or groundwater that could be impacted by production of oil or natural gas from any well in an adjacent single or consolidated well site. The plan, at a minimum, will include the following:

(1) The type and number of wells needed to establish baseline groundwater quality upgradient and downgradient of the proposed oil and gas operations, including depth, materials of construction and location of wells on and around the site;

(2) The constituents to be sampled for, taking into account State of Colorado groundwater standards and any materials used in the oil and gas operations that could affect groundwater;

(3) The type and frequency of samples to be collected and analyzed before operations start, during operations and after operations have been completed;

(4) The analytical methods and reporting levels to be used;

(5) The proposed frequency of reporting results to the City and C.

(d) The plan shall be based on hydrologic studies or equivalent information showing the subsurface conditions and mobility of the groundwater aquifer(s) that will be affected by the oil and gas operations. The plan shall be

1 prepared by an engineer registered in the State of Colorado with experience in  
2 groundwater monitoring and subsurface condition investigations.

3 (e) The procedures and provisions in the approved plan shall be  
4 implemented by the oil and gas well operators prior to any construction or  
5 operations on the site. Oil and gas well operators shall fund the development and  
6 implementation of the water quality monitoring plan and program for the duration  
7 of operations on the site and for a minimum of five (5) years following  
8 completion of operations and abandonment of the well(s). All monitoring records  
9 related to the program shall be provided to the City as soon as they are available  
10 to the operator.

11 xi. Waste and Wastewater Disposal & Closed Loop/Pitless System.

12 (a) Minimum Standard.

13 All water, waste, chemicals, fluids, solutions or other solid  
14 materials or liquid substances produced or discharged by the operation of  
15 the oil and gas well's facilities shall be treated and disposed of in  
16 accordance with all applicable rules and regulations of the governmental  
17 authorities having jurisdiction over such matters.

18 (b) Recommended Standard.

19 (1) No pits, production, reserve, waste, or otherwise, shall be  
20 constructed or maintained on the site and any produced water or waste and  
21 chemicals, fluids, hydrocarbons, fracturing solutions or other solid  
22 materials or liquid substances of any kind shall not be discharged on the  
23 site and shall be discharged and held only in a "closed loop system"  
24 comprised of sealed storage tanks, commonly used for such purposes in  
25 the industry, which contents shall be promptly removed from the site and  
26 disposed of off of the site at a licensed disposal site, in accordance with  
27 COGCC or other applicable rules and regulations.

28 (2) Drilling or operation of any waste water or other injection  
29 or disposal wells is prohibited. Except to the extent that materials are  
30 injected into a well as part of normal and ordinary drilling, completion and

1                   production operations, an operator shall not inject or re-inject any fluid,  
2                   water, waste, fracking material, chemical or toxic product into any well.

3                   xii. Production Site Containment.

4                   Berms or other containment devices shall be constructed around crude oil  
5                   condensate, or produced water and waste storage tanks and shall enclose an area  
6                   sufficient to contain and provide secondary containment for 150 percent of the  
7                   largest single tank. Berms or other secondary containment devices shall be  
8                   sufficiently impervious to contain all spilled or released material. No more than  
9                   two storage tanks shall be located within a single berm in high density areas. All  
10                  berms and containment devices shall be maintained in good condition. No  
11                  potential ignition sources shall be allowed inside the secondary containment area.

12                  xiii. Spill, Release, Discharge.

13                  The operator shall implement best management practices in compliance  
14                  with applicable state and federal laws to avoid and minimize the spill, release or  
15                  discharge of any pollutants, contaminants, chemicals, solid wastes, or industrial,  
16                  toxic or hazardous substances or wastes at, on, in, under, or near the site. Any  
17                  such spill, release or discharge, including without limitation, of oil, gas, grease,  
18                  solvents, or hydrocarbons that occurs at, on, in, under, or near the site shall be  
19                  remediated by the operator and notice provided by the operator in compliance  
20                  with applicable state and federal laws, rules and policies.

21                  xiv. Stormwater Management.

22                  The construction and operation of oil and gas wells and production  
23                  equipment, including access roads and storage areas for equipment and materials,  
24                  shall meet all stormwater management and pollution prevention requirements of  
25                  the Colorado Department of Public Health and Environment and any applicable  
26                  requirements of LMC Chapter 14.26.

27                  xv. Pipeline and Gathering Systems.

28                  The design, construction, cover, and reclamation of all pipelines and  
29                  gathering lines for oil and gas operations shall be subject to the COGCC rules.  
30                  The alignment location of any approved pipeline or gathering system shall be  
31                  recorded against the respective property in the records of the County Clerk and

1 Recorder. The location of any pipelines and gathering lines which are proposed  
2 for abandonment shall also be recorded against the respective property in the  
3 records of the County Clerk and Recorder upon abandonment.

4 xvi. Air Quality.

5 (a) Air emissions from the operation shall be, at a minimum, in  
6 compliance with the permit and control provisions of the Colorado Air Quality  
7 Control Program, Title 25, Section 7, C.R.S.

8 (b) Oil and gas well operations are prohibited from causing airborne  
9 emissions in concentrations that are known to cause negative health impacts.

10 (c) The operator shall make reasonable efforts to minimize methane  
11 emissions by using all feasible "green completion" techniques, pursuant to  
12 COGCC Rules Section 805(3) and the installation of "low bleed" pneumatic  
13 instrumentation and closed loop systems.

14 (d) To the maximum extent practicable, all fossil fuel powered engines  
15 used on site shall employ the latest emission-reduction technologies.

16 (e) The use of electric-power engines and motors, and pumping  
17 systems are recommended to reduce airborne emissions wherever practical given  
18 an oil and gas well facility's proximity to available electric transmission lines.

19 xvii. Odor/Dust Containment.

20 Oil and gas facilities and equipment shall be operated in such a manner  
21 that odors and dust do not constitute a nuisance or hazard to public health,  
22 safety, welfare, and the environment, including compliance with COGCC Rules  
23 section 805.b.(1) and LMC Section 15.05.160(D) regarding use of best available  
24 technologies to control odor.

25 xviii. Wildlife and Habitat.

26 Oil and gas facilities shall comply with federal and state requirements  
27 regarding the protection of wildlife and habitat, including the COGCC wildlife  
28 resource protection rules, and the provisions of LMC section 15.05.030, "Habitat  
29 and Species Protection". The applicant shall implement such procedures as  
30 recommended by the Colorado Division of Wildlife after consultation with the

1 City Natural Resources staff. The applicant shall not engage in activities that the  
2 Colorado Division of Wildlife determines threaten endangered species.

3 xviii. Reclamation, Re-vegetation and Well Abandonment.

4 (a) Site Vegetation Analysis.

5 Applications for oil and gas well facilities shall include an analysis  
6 of the existing vegetation on the site to establish a baseline for re-  
7 vegetation upon abandonment of the facility or upon final reclamation of  
8 the site. The analysis shall include a written description of the species,  
9 character, and density of existing vegetation on the site and a summary of  
10 the potential impacts to vegetation as a result of the proposed operation.

11 (b) Re-vegetation.

12 Applications for oil and gas facilities shall include a copy of any  
13 COGCC accepted interim and final reclamation procedures and  
14 consultation with City Natural Resources staff regarding site specific re-  
15 vegetation plan recommendations.

16 (c) Well Abandonment.

17 Operators shall comply with COGCC rules regarding well  
18 abandonment. Upon the plugging and abandonment of a well, the operator  
19 shall provide surveyed coordinates of the abandoned well and a physical  
20 marker of the well location.

21 xix. Transportation Impacts, Road and Access.

22 (a) Transportation Impact Study.

23 (1) Applications for all oil and gas well facilities may be  
24 required to include a transportation impact study, which shall clearly  
25 identify and distinguish the impacts to City roads and bridges related to  
26 facility construction, operations, and ongoing new traffic generation from  
27 other impacts. Transportation impact studies shall be prepared in  
28 accordance with the City standards requirements or other guidelines as  
29 provided by the City engineer. The process for mitigation of  
30 transportation impacts typically will include a plan for traffic control,  
31 evidence of the receipt of all necessary permits, ongoing roadway

1 maintenance, and improving or reconstructing City roads as necessary,  
2 including providing financial assurance.

3 (2) A traffic control plan shall be prepared for each phase of  
4 operations where City roads will be utilized for transportation of materials  
5 in support of site construction and/or operations.

6 (3) In the event that public road improvements are required to  
7 accommodate an oil and gas well facility, engineered drawings prepared  
8 by a Colorado licensed civil engineer shall be approved prior to permitting  
9 work in the right-of-way. Such drawings shall conform to City standards.  
10 Financial assurance shall be required for the construction or reconstruction  
11 of all public roads.

12 (b) Maintenance.

13 In the event that the activities of an operator cause any City  
14 roadway to become substandard, the City may require the operator to  
15 provide ongoing maintenance of the applicable substandard City roadway.  
16 Such maintenance may include dust control measures and roadway  
17 improvements such as graveling, shouldering, and/or paving as determined  
18 in the Transportation Impact Study.

19 (c) Site Access

20 Any access to a property from a City street requires a City-issued  
21 access permit. Permits are revocable upon issuance of a stop work order or  
22 if other permit violations occur. The permitting and construction of site  
23 accesses shall comply with the City design standards.

24 (d) Private Access Roads

25 For private access roads connecting oil and gas well facilities with  
26 a public street or state highway, the applicant shall provide written  
27 documentation as part of the application demonstrating that it has the legal  
28 right to use such road(s) for the purpose of accessing the facilities. All  
29 private roads used to access oil and gas well facilities shall be graded for  
30 appropriate drainage, and surfaced and maintained to provide adequate  
31 access for oil and gas operation vehicles and emergency vehicles. The

operator shall comply with City standards regarding vehicle tracking and dust mitigation. The operator shall also enter into an agreement with the private road owner regarding maintenance and reimbursement for damages.

(e) State Highway Access.

If access is directly to a state highway, the applicant must have an approved State Highway Access Permit for the proposed facility.

xx. Signs.

Oil and gas well facilities shall have signage consistent with the COGCC rules. In addition, each well site and production site shall have posted in a conspicuous place a legible sign of not less than three square feet and not more than six square feet bearing the current name of the operator, a current phone number including area code, where the operator may be reached at all times, and the name or number of the lease and the number of the well printed thereon. The sign shall warn of safety hazards to the public and shall be maintained on the premises from the time materials are delivered for drilling purposes until the well site and production site is abandoned.

x. Definitions.

(a) For purposes of these oil and gas well regulations only, the following words shall have the following definitions:

*Act* means the Oil and Gas Conservation Act of the State of Colorado.

*Ancillary Facilities* means all of the equipment, buildings, structures, and improvements associated with or required for the operation of a well site, pipeline, or compressor facility. Ancillary facilities include, but are not limited to, roads, well pads, tank batteries, combustion equipment and exclude gathering lines.

*Best Management Practices (BMPs)* are practices that are designed to prevent or reduce impacts caused by oil and gas operations to air, water, soil, or biological resources, and to minimize adverse impacts to public health, safety and welfare, including the environment and wildlife resources.

1           *Centralized Exploration and Production (E&P) Waste Management Facility*  
2 means a facility, other than a commercial disposal facility regulated by the Colorado  
3 Department of Public Health and Environment, that (1) is either used exclusively by one  
4 owner or operator or used by more than one operator under an operating agreement; and  
5 (2) is operated for a period greater than three (3) years; and (3) receives for collection,  
6 treatment, temporary storage, and/or disposal produced water, drilling fluids, completion  
7 fluids, and any other exempt E&P wastes as defined by the COGCC Rules that are  
8 generated from two or more production units or areas or from a set of commonly owned  
9 or operated leases. This definition includes oil-field naturally occurring radioactive  
10 materials (NORM) related storage, decontamination, treatment, or disposal. This  
11 definition excludes a facility that is permitted in accordance with COGCC Rule 903  
12 pursuant to COGCC Rule 902.e.

13           *Commercial Disposal Well Facility* means a facility whose primary objective is  
14 disposal of Class II waste from a third party for financial profit.

15           *COGCC* means the Colorado Oil and Gas Conservation Commission.

16           *Completion* - An oil well shall be considered completed when the first new oil is  
17 produced through well head equipment into lease tanks from the ultimate producing  
18 interval after the production string has been run. A gas well shall be considered  
19 completed when the well is capable of producing gas through wellhead equipment from  
20 the ultimate producing zone after the production string has been run. A dry hole shall be  
21 considered completed when all provisions of plugging are complied with as set out in  
22 these rules. Any well not previously defined as an oil or gas well, shall be considered  
23 completed ninety (90) days after reaching total depth. If approved by the COGCC, a well  
24 that requires extensive testing shall be considered completed when the drilling rig is  
25 released or six months after reaching total depth, whichever is later.

26           *Dedicated Injection Well* means any well as defined under 40 C.F.R. §144.5 B,  
27 1992 Edition, (adopted by the U.S. Environmental Protection Agency) used for the  
28 exclusive purpose of injecting fluids or gas from the surface. The definition of a  
29 dedicated injection well does not include gas storage wells.

30           *Designated Agent* means the designated representative of any oil and gas well  
31 operator.

1           *Designated Outside Activity Areas* means as defined in COGCC rules.

2           *Exploration and Production Waste (E&P Waste)* means those wastes associated  
3 with operations to locate or remove oil or gas from the ground or to remove impurities  
4 from such substances and which are uniquely associated with and intrinsic to oil and gas  
5 exploration, development, or production operations that are exempt from regulation under  
6 Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 USC Sections  
7 6921, et seq. For natural gas, primary field operations include those production-related  
8 activities at or near the well head and at the gas plant (regardless of whether or not the  
9 gas plant is at or near the wellhead)but prior to transport of the natural gas from the gas  
10 plant to market. In addition, uniquely associated wastes derived from the production  
11 stream along the gas plant feeder pipelines are considered E&P wastes, even if a change  
12 of custody in the natural gas has occurred between the wellhead and the gas plant. In  
13 addition, wastes uniquely associated with the operations to recover natural gas from  
14 underground storage fields are considered to be E&P Wastes.

15           *Flowlines* mean those segments of pipe from the wellhead downstream through  
16 the production facilities ending at: in the case of gas lines, the gas metering equipment; or  
17 in the case of oil lines the oil loading point or Lease Automatic Custody Transfer (LACT)  
18 unit; or in the case of water lines, the water loading point, the point of discharge to a pit,  
19 the injection wellhead, or the permitted surface water discharge point.

20           *Gathering Line* means a pipeline and equipment described below that transports  
21 gas from a production facility (ordinarily commencing downstream of the final  
22 production separator at the inlet flange of the custody transfer meter) to a natural gas  
23 processing plant or transmission line or main. The term “gathering line” includes valves,  
24 metering equipment, communication equipment cathodic protection facilities, and pig  
25 launchers and receivers, but does not include dehydrators, treaters, tanks separators, or  
26 compressors located downstream of the final production facilities and upstream of the  
27 natural gas processing plants, transmission lines, or main lines.

28           *Green Completion Practices* mean those practices intended to reduce emissions of  
29 salable gas and condensate vapors during cleanout and flowback operations prior to the  
30 well being placed on production and thereafter as applicable.

31           *Groundwater* means subsurface waters in a zone of saturation.

1           *Inactive Well* means any shut-in well from which no production has been sold for  
2 a period of twelve (12) consecutive months; any well which has been temporarily  
3 abandoned for a period of (6) consecutive months; or, any injection well which has not  
4 been utilized for a period of twelve (12) consecutive months.

5           *Local Government Designee (LGD)* means the office designated to receive, on  
6 behalf of the local government, copies of all documents required to be filed with the local  
7 government designee pursuant to these rules.

8           *Mineral Estate Owner* means the owner or lessee of minerals located under a  
9 surface estate that are subject to an application for development.

10          *Multi-well Site* means a common well pad from which multiple wells may be  
11 drilled to various bottomhole locations.

12          *Oil* means crude petroleum oil and any other hydrocarbons, regardless of  
13 gravities, which are produced at the well in liquid form by ordinary production methods,  
14 and which are not the result of condensation of gas before or after it leaves the reservoir.

15          *Oil and Gas* means oil or gas or both oil and gas.

16          *Oil and Gas Well* means a hole drilled into the earth for the purpose of exploring  
17 for or extracting oil, gas, or other hydrocarbon substances.

18          *Oil and Gas Well Facility* means equipment or improvements used or installed at  
19 an oil and gas well location for the exploration, production, withdrawal, gathering,  
20 treatment, or processing of oil or natural gas.

21          *Oil and Gas Well Location* means a definable area where an operator has  
22 disturbed or intends to disturb the land surface in order to locate an oil and gas well  
23 facility.

24          *Oil and Gas Well Operations* means exploration for oil and gas, including the  
25 conduct of seismic operations and the drilling of test bores; the siting; drilling; deepening,  
26 recompletion, reworking, or abandonment of an oil and gas well, or gas storage well;  
27 production operations related to any such well including the installation of flowlines and  
28 gathering systems; the generation, transportation, storage, treatment,; and any  
29 construction, site preparation, or reclamation activities associated with such operations.

30          *Operating Plan* means a general description of a facility identifying purpose, use,  
31 typical staffing pattern, equipment description and location, access routes, seasonal or

1       periodic considerations, routine hours of operating, source of services and infrastructure,  
2       and any other information related to regular functioning of that facility.

3           *Operator* means any person who exercises the right to control the conduct of oil  
4       and gas operations.

5           *Owner* means any person with a working interest ownership in the oil and gas or  
6       leasehold interest therein.

7           *Pit* means a subsurface earthen excavation (lined or unlined), or open top tank,  
8       used for oil or gas exploration or production purposes for retaining or storing substances  
9       associated with the drilling or operation of oil and gas wells. Pits may include drilling  
10      pits, production pits, reserve pits and special purpose pits as defined in COGCC Rules

11          *Plugging and Abandonment* means the cementing of a well, the removal of its  
12       associated production facilities, the removal or abandonment in-place of its flowline, and  
13       the remediation and reclamation of the wellsite.

14          *Pollution* means man-made or man-induced contamination or other degradation of  
15       the physical, chemical, biological, or radiological integrity of air, water, soil, or  
16       biological resource.

17          *Production Facilities* mean all storage, separation, treating, dehydration, artificial  
18       lift, power supply, compression, pumping, metering, monitoring, flowline, and other  
19       equipment directly associated with oil or gas wells.

20          *Production Site* means that surface area immediately surrounding proposed or  
21       existing production equipment, or other accessory equipment necessary for oil and gas  
22       production activities, exclusive of transmission and gathering pipelines.

23          *Public Water System* means those systems designated by the COGCC. These  
24       systems provide to the public water for human consumption through pipes or other  
25       constructed conveyances, if such systems have at least fifteen (15) service connections or  
26       regularly serve an average of at least twenty-five (25) individuals daily at least sixty (60)  
27       days out of the year. Such definition includes:

28           (i)       Any collection, treatment, storage, and distribution facilities under control  
29       off the operator of such system and used primarily in connection with such system.

30           (ii)      Any collection or pretreatment storage facilities not under such control,  
31       which are used primarily in connection with such system.

1           The definition of “Public Water System” for purposes of Rule 317B does not  
2 include any “special irrigation district,” as defined in Colorado Primary Drinking Water  
3 Regulations (5 C.C.R. 1003.1).

4           *Reclamation* means the process of returning or restoring the surface of disturbed  
5 land as nearly as practicable to its condition prior to the commencement of oil and gas  
6 operations or to landowner specifications with an approved variance under COGCC Rule  
7 502.b.

8           *Remediation* means the process of reducing the concentration of a contaminant or  
9 contaminants in water or soil to the extent necessary to ensure compliance with the  
10 concentration levels in COGCC rules and other applicable ground water standards and  
11 classifications.

12           *Seismic Operations* means all activities associated with acquisition of seismic data  
13 including but not limited to surveying, shothole drilling, recording, shothole plugging and  
14 reclamation.

15           *Sensitive Area* means an area vulnerable to potential significant adverse  
16 groundwater impacts, due to factors such as the presence of shallow groundwater or  
17 pathways for communication with deeper groundwater; proximity to surface water,  
18 including lakes, rivers, perennial or intermittent streams, creeks, irrigation canals, and  
19 wetlands. Additionally, areas classified for domestic use by the Water Quality Control  
20 Commission, local (water supply) wellhead protection areas, areas within 1/8 mile of a  
21 domestic water well, areas within ¼ mile of a public water well, ground water basins  
22 designated by the Colorado Ground Water Commission, and surface water supply areas  
23 are sensitive areas.

24           *Sidetracking* means entering the same well head from the surface, but not  
25 necessarily following the same well bore, throughout its subsurface extent when  
26 deviation from such well bore is necessary to reach the objective depth because of an  
27 engineering problem.

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

29           *Subsurface Disposal Facility* means a facility or system for disposing of water or  
30 other oil field wastes into a subsurface reservoir or reservoirs.

1           *Surface Water Supply Area* means the classified water supply segments within  
2 five (5) stream miles upstream of a surface water intake on a classified water supply  
3 segment. Surface Water Supply Areas shall be identified on the Public Water Supply  
4 Area Map or through use of the Public Water System Surface Water Supply Area  
5 Applicability Determination Tool described in COGCC Rule 317B.b.

6           *Tank* shall mean a stationary vessel that is used to contain fluids, constructed of  
7 non-earthen materials (e.g. concrete, steel, plastic) that provide structural support.

8           *Treatment facilities* means any plant, equipment or other works used for the  
9 purposes of treating, separating or stabilizing any substance produced from a well.

10          *Twinning* means the drilling of a well within a radius of fifty feet from an existing  
11 well bore when the well cannot be drilled to the objective depth or produced because of  
12 an engineering problem, such as a collapsed casing or formation damage.

13          *Water Bodies* mean reservoirs, lakes, perennial or seasonally flowing rivers,  
14 streams, creeks, springs, irrigation ditches, aquifers, and wetlands.

15          *Waters of the State* mean any and all surface and subsurface waters which are  
16 contained in or flow in or through this state, but does not include waters in sewage  
17 systems, waters in treatment works of disposal systems, water in potable water  
18 distribution systems, and all water withdrawn for use until use and treatment have been  
19 completed. Waters of the state include, but are not limited to, all streams, lakes, ponds,  
20 impounding reservoirs, wetlands, watercourses, waterways, wells, springs, irrigation  
21 ditches or canals, drainage systems, and all other bodies or accumulations of water,  
22 surface and underground, natural or artificial, public or private, situated wholly or partly  
23 within or bordering upon the State.

24          *Well* means an oil or gas well for purposes of exploration and production.

25          *Well Site* means the areas that are directly disturbed during the drilling and  
26 subsequent operation of, or affected by production facilities directly associated with, any  
27 oil or gas well or injection well and its associated well pad.

28          (b)     All terms used in this section that are defined in the Act or in COGCC  
29 rules and are not otherwise defined in Chapter 15.10 of this development code shall be  
30 defined as provided in the Act.

(c) All other words used in this section shall be given their usual customary and accepted meaning, and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in the oil and gas industry.

### Section 3

The Council amends §§ 15.04.010 only of the Longmont Municipal Code, by adding italicized material and deleting stricken material to read as shown on the attached Exhibit 1.

## Section 4

The Council amends § 15.05.010 of the Longmont Municipal Code, by adding italicized material and deleting stricken material only, to read as follows:

• • •

B. Residential zoning districts – Density and dimensional standards.

2

## 2. Special standards.

1

*h. Setbacks/location from existing and abandoned oil and gas wells and facilities. Please see section 15.04.020(B)(32)(w)(ii) and (iii) regarding setbacks/location of structures from existing and abandoned oil and gas wells and facilities.*

2

C. Commercial, industrial, mixed use and public zoning districts – Density, intensity, and dimensional standards. Table 15.05-B

## 2. Special standards

*f. Setbacks/location from existing and abandoned oil and gas wells and facilities. Please see section 15.04.020(B)(32)(w)(ii) and (iii) regarding setbacks/location of structures from existing and abandoned oil and gas wells and facilities*

1 ...

### 3      Section 5

4 The Council amends § 15.07.050 of the Longmont Municipal Code, by adding italicized  
5 material and deleting stricken material only, to read as follows:

6 ...

## 7 15.07.50. Subdivision design and improve

P. Setbacks/location from existing and abandoned wells and facilities. Please see section 15.04.020(B)(32)(w)(ii) and (iii) regarding setbacks/location of platted residential lots, parks, sports fields and playgrounds, public roads, and major above ground utility lines from existing and abandoned oil and gas wells and facilities.

13 ...

14

15 Section 6

16 The Council amends § 15.10.020 of the Longmont Municipal Code only of the Longmont  
17 Municipal Code, by adding italicized material and deleting stricken material, to read as follows:

18

## 15.10.020 Definitions of words, terms and

Heavy industrial means manufacturing or other enterprises with significant external effects, or which pose significant risks due to involvement with explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process. *Oil and gas waste disposal facilities, including injection wells for disposal of oil and gas exploration and production wastes, commercial disposal facilities, centralized E&P waste management facilities, and subsurface disposal facilities, are classified as heavy industrial uses.*

29 ...

~~OGCC means the oil and gas conservation commission.~~

1           ~~Oil means crude petroleum oil and any other hydrocarbons, regardless of~~  
2           ~~gravities, which are produced at the well in liquid form by ordinary production methods,~~  
3           ~~and which are not the result of condensation of gas before or after it leaves the reservoir.~~

4

5           ~~Oil and gas means oil or gas or both oil and gas.~~

6

7           ~~Oil and gas well means a hole drilled into the earth for the purpose of exploring~~  
8           ~~for or extracting oil, gas, or other hydrocarbon substances.~~

9           ...

10

11          Section 7

12          The Council amends Appendix B of Title 15 of the Longmont Municipal Code, by  
13          adding italicized material and deleting stricken material to read as shown on the attached Exhibit  
14          2.

15

16          Section 8

17          To the extent only that they conflict with this ordinance, the Council repeals any  
18          conflicting ordinances or parts of ordinances. The provisions of this ordinance are severable, and  
19          invalidity of any part shall not affect the validity or effectiveness of the rest of this ordinance.

20

21

22          Introduced this 8<sup>th</sup> day of May, 2012.

23

24          Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

25

26

27

28

29

30

\_\_\_\_\_  
MAYOR

1 ATTEST:

2

3

4

5 CITY CLERK

6

7

8 NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT  
9 7:00 P.M. ON THE 22ND DAY OF MAY, 2012, IN THE LONGMONT COUNCIL  
10 CHAMBERS.

11

12

13 APPROVED AS TO FORM:

14

15 /s/ Eugene Mei 05/08/12  
16 CITY ATTORNEY DATE

17

18

19 /s/ M. McQueen 05/08/12  
20 PROOF READ DATE

21

22

23 APPROVED AS TO FORM AND SUBSTANCE:

24

25

26

27 /s/ Brad Power 05/08/12  
28 ORIGINATING DEPARTMENT DATE

1  
EXHIBIT 12  
15.04.010 Principal uses by zoning district3  
...4  
J. Table 15.04-A: Table of Principal Uses by Zoning District.

TABLE 15.04-A: TABLE OF PRINCIPAL USES

P = Permitted Use C = Conditional Use L = Limited Use Blank Cell = Prohibited Use

USE CLASSIFICATION & SPECIFIC PRINCIPAL USES	ZONING DISTRICT																			Additional Regulations (Apply in All Districts Unless Otherwise Stated)
	E1	E2	R1	R2	R3	MH	RLE	RMD	MD-O	C	CR	CBD	BLI	MI	GI	P	A	MU	RP	
G. Manufacturing and Processing Uses																				
Industrial users where products are researched, designed, assembled, manufactured, or produced.  **Operation of all principal uses shall be conducted primarily inside an enclosed structure unless otherwise specified in this Use Table 15.04-A**																				
Light industrial uses  Indoor use only except for storage meeting accessory use standards.													P	P	P		C	P		24; Operational impacts associated with noise, odors, light, vibration, etc. are confined to the lot on which the use is located or are adequately mitigated. MU and overlay: allowed only in commercial core area

TABLE 15.04-A: TABLE OF PRINCIPAL USES

P = Permitted Use C = Conditional Use L = Limited Use Blank Cell = Prohibited Use

USE CLASSIFICATION & SPECIFIC PRINCIPAL USES	ZONING DISTRICT															Additional Regulations (Apply in All Districts Unless Otherwise Stated)			
	E1	E2	R1	R2	R3	MH	RLE	RMD	MD-O	C	CR	CBD	BLI	MI	GI	P	A	MU	RP
Medium industrial uses Majority of use occurs indoor													L/C	L	P			P	24; Operational impacts associated with noise, odors, light, vibration, etc. are confined to the zoning district in which the use is located or are adequately mitigated. BLI: Limited use review for indoor use only except for storage meeting accessory use standards. Conditional use review for uses with additional outdoor activities. Not allowed in MU district overlay
Heavy industrial uses Use may occur indoor or outdoor														C			C		24; Operational impacts associated with noise, odors, light, vibration, etc. are confined to the zoning district in which the use is located or are adequately mitigated. Not allowed in MU district overlay

TABLE 15.04-A: TABLE OF PRINCIPAL USES

P = Permitted Use C = Conditional Use L = Limited Use Blank Cell = Prohibited Use

USE CLASSIFICATION & SPECIFIC PRINCIPAL USES	ZONING DISTRICT																	Additional Regulations (Apply in All Districts Unless Otherwise Stated)	
	E1	E2	R1	R2	R3	MH	RLE	RMD	MD-O	C	CR	CBD	BLI	MI	GI	P	A	MU	RP
Oil and gas well <i>operations and</i> facilities	€	€	€	€	€	€	€	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	32; <i>Refer to section 15.04.020.B.32.c.iv</i> <i>regarding use restrictions;</i> <i>Refer to section 15.04.020.B.32.g</i> <i>regarding review process;</i> Not allowed in MU district overlay
...																			

1 EXHIBIT 2

2 APPENDIX B. SUBMITTAL REQUIREMENTS FOR DEVELOPMENT APPLICATIONS

3 . . .

4 2. ~~Table 2:~~ Submittal requirements for applications for major developments.

- 5 a. Table 2: Information to be submitted as application package to planning and development services division  
6 (number of copies shall be specified in the pre-application conference).
- 7 b. Oil and Gas *Well Operations and* Facilities: Additional Submittal Requirements. In addition to the conditional  
8 use application ~~package~~ requirements in Tables 2, 3 and 4 below, proposed oil and gas *well operations and*  
9 facilities subject to the use regulations in §15.04.020.B.32, “Oil and Gas *Well Operations and* Facilities,” shall  
10 include the additional submittal requirements stated in Table 8 of this Appendix, below.

11 . . .

12 3. Submittal requirements for applications for minor developments.

- 13 a. Table 5: Application ~~Package~~ Requirements for ~~Applications for~~ Minor Developments.
- 14 b. *Oil and Gas Well Operations and Facilities: Additional Submittal Requirements. In addition to the limited use*  
15 *application requirements in Tables 5, 6 and 7 below, proposed oil and gas well operations and facilities subject*  
16 *to the use regulations in §15.04.020.B.32, “Oil and Gas Well Operations and Facilities,” shall include the*  
17 *additional submittal requirements stated in Table 8 of this Appendix, below.*

18 . . .

19 4. Additional Submittal Requirements for ~~Conditional Use Review of~~ Oil and Gas *Well Operations and* Facilities. In  
20 addition to the conditional use application ~~package~~ requirements in Tables 2, 3 and 4 above *or the limited use*  
21 *application requirements in Tables 5, 6 and 7 above*, proposed oil and gas *well operations and* facilities subject to the

1 use regulations in §15.04.020.B.32, “Oil and Gas *Well Operations and* Facilities,” shall include the submittal  
2 requirements stated in Table 8 below.

3  
4 TABLE 8

5 ADDITIONAL SUBMITTAL REQUIREMENTS FOR ~~CONDITIONAL USE~~ REVIEW OF OIL AND GAS *WELL*  
6 *OPERATIONS AND* FACILITIES

7  
8 General Submission Requirements:

- 9 1. The *applicant and* operator's name, ~~and~~ address, *phone and fax numbers, and email addresses* ~~and copies of~~  
10 ~~applicable OGCC forms 1 and 2.~~  
11 2.~~An operating plan.~~  
12 3.~~2.~~A listing of all permits or approvals obtained or yet to be obtained from state or federal agencies ~~other than OGCC.~~  
13 3. A written description of compliance with the requirements and standards in §15.04.020.B.32.  
14 4. The following items consistent with the requirements and standards in §15.04.020.B.32:  
15     a. Emergency response plan;  
16     b. Cultural resource plan, as applicable;  
17     c. Operation plan;  
18     d. Visual mitigation analysis, as applicable;  
19     e. Noise mitigation, as applicable;  
20     f. Lighting plan;  
21     g. Water quality monitoring plan, as applicable;  
22     h. Site vegetation analysis;

- 1                   *i. Habitat protection plan, as applicable*
- 2                   *j. Transportation impact study, traffic control plan, and access plan.*

3     4. An emergency response plan which includes, but is not limited to, a listing of local telephone numbers of the public  
4       and private entities and individuals to be notified in the event of an emergency, the location of the well, the location  
5       of drilling equipment and related facilities and structures, and provisions to be made for access by emergency  
6       response entities.

7     5. A schedule of drilling and anticipated completion events related to the proposed well.

8     6. An access plan indicating proposed equipment routes and loading information.

9     7. Drainage and erosion control plans for on-site and off-site drainage.

10    8.5. Graphic representations, ~~preferably a representative~~ *including* photographs, ~~photographs or pictorial drawing~~, of the  
11      types of equipment to be used during drilling, completion, maintenance, or abandonment operations, as applicable.

12    6. Any other reasonable or pertinent information deemed necessary by the City for the application review or  
13      compliance with the requirements and standards in §15.04.020.B.32.

15      Vicinity Map Requirements:

16      The Applicant shall include a *scaled* vicinity map *with aerial imagery* that shows ~~all of~~ the following:

17      1. The location of all existing bodies of water and watercourses, ~~including direction of water flow. This information~~  
18       ~~shall be submitted on United States Geological Service (USGS) 7.5 minute series, assessor base maps which~~  
19       ~~indicate topographic detail and show all existing bodies of water and watercourses with a physically defined~~  
20       ~~channel within a 1,000 foot radius one mile or greater of the proposed well(s) or a map of equal quality and~~  
21       ~~information.~~

- 1           2. The location of existing *and abandoned* oil and gas wells as reflected in COGCC records. ~~This information shall~~  
2           ~~include any and all wells, including abandoned wells, within a 1,000 foot radius one mile or greater~~ of the proposed  
3           well(s)location for the well.  
4           3. The location of proposed wells, ~~sites and proposed~~ production sitesfacilities and access roads. ~~The information to~~  
5           ~~be submitted shall be that contained on OGCC form 2. The information shall also include the parcel tax~~  
6           ~~identification number of the property on which the well site and production site is to be located.~~

7  
8           Site Plan Requirements:

9           The Applicant shall submit a ~~conditional use~~ site plan that, in addition to the requirements ~~in Table 2 for conditional use~~  
10           site plans or limited use site plans above, includes the following elements:

- 11           1. The location of the proposed well siteoperations and productionfacilities site including well(s), proposed twinning  
12           locations, motors, compressors, tank battery, separators and treaters, production pitsequipment, transmission and  
13           gathering pipelines and other accessory equipmentancillary facilities to be used during the drilling, maintenance  
14           and operation of the proposed well. The site plan shall identify all proposed accessways, and storage facilities  
15           associated with the well siteoperations and productionfacilities site depicted, and shall contain a description and  
16           location of proposed landscaping, intended color of paint for storage tanks and other permanent structures, fencing  
17           and berthing for the site.
- 18           2. All existing physical features, including water bodies, drainage ways, floodplains, roads and rights-of-way within  
19           1,000 feetone half mile or greater of a proposed well siteoperations orand production sitefacilities. The site plan  
20           shall also depict existing subdivision boundaries, existing buildings or structures, property lines, public and private  
21           utility easements of record and utility facilities and improvements within 400 feetone half mile or greater of the  
22           proposed well siteoperations or production sitefacilities.

1           3. Demonstration of compliance with applicable requirements and standards in §15.04.020.B.32 for oil and gas well  
2           operations and facilities.

3           3.4. The ~~Planning Director~~Development Services Manager may waive one or more of the items listed as submission  
4           requirements if they are not applicable given the location of the well ~~site~~operations or ~~production site~~facilities. (See  
5           §15.02.040.Q., “Submittal Requirements.”) ~~The Planning Director may also require from the Applicant any other~~  
6           ~~reasonable and pertinent information related to the submission requirements deemed necessary for the review of the~~  
7           ~~conditional use permit.~~



## ORDINANCE O-2012-

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 15.04, 15.05, 15.07, 15.10 AND  
APPENDIX B OF TITLE 15 OF THE LONGMONT MUNICIPAL CODE REGARDING OIL  
AND GAS WELL OPERATIONS AND FACILITIES

WHEREAS, domestic oil and gas exploration,along with the associated pollution and health risks, have increased in proximity to residential areas in and about Longmont, Colorado.

WHEREAS the City of Longmont desires to protect its municipality and its citizens from the risks associated from industrial activities which might negatively impact residential and commercial property values, the wellbeing and health of its citizens, the peace and tranquility of its neighborhoods and schools, and the overall environment and quality of life within Longmont, ~~urban, suburban, and rural communities across the United States. The Greater Wattenberg Area (“GWA”), which encompasses the City of Longmont (“City”), and most of Boulder, Weld, Larimer, Adams, Broomfield, and parts of Arapahoe and Douglas Counties, Colorado, is the focus of a surge in these activities.~~

WHEREAS, there are more than 45,000 active oil and gas wells in Colorado, and exploration and production in the GWA has experienced rapid growth during the past decade. Over the past several years new processes have been introduced in the GWA that have made exploration and production of “unconventional” oil and gas resources, such as the Niobrara formation, very attractive. As a result, there has been a surge in directional and horizontal drilling and completions, which includes the practice known as hydraulic fracturing or “fracking”.

WHEREAS, fracking is a process used to stimulate oil and gas production during the completion process after an oil or gas well has been drilled. Its purpose is to improve the productivity and ultimate recovery of a well by creating a pathway from the productive formation to the well bore. A typical fracking operation may involve several million gallons of fluid that is approximately 90% water, and 10% “proppant” (or sand) and chemical agents. During the completion process these fluids are pumped into the well under high pressure. The “flow back” of the fracturing solution and material from the formation can either be collected in lined pits, or in impermeable tanks that are part of a “closed loop system”. The fracturing solution is usually brought to and taken away from a well site in large trucks. If existing roads

1   are not available or adequate, new roads will be created. Drill pads must be built, and large  
2   drilling and production platforms erected on site. While a single well may be drilled at a well  
3   site, it has become increasingly common for multiple wells to be drilled and completed at a well  
4   site, often involving multiple completions which may last many weeks or months. Oil and gas  
5   drilling and completion can be an around the clock activity that involves significant noise, dust,  
6   and artificial light.

7       WHEREAS, oil and natural gas development and production are known to produce a  
8   variety of physical and chemical hazards that may cause negative health effects if they are not  
9   properly mitigated. For example, in September 2010, the faculty and staff of the Department of  
10   Environmental and Occupational Health, Colorado School of Public Health (“CSPH”) published  
11   a report which outlined potential environmental hazards, vulnerable populations, and possible  
12   health outcomes arising from oil and gas exploration and development. The study focused on the  
13   increased level of oil and gas activities in Garfield County, Colorado, and found that air  
14   monitoring in Garfield County had documented levels of some toxins in ambient air that  
15   increased the risks of negative health effects for nearby citizens. The report also found that  
16   adverse effects on air, soil, water, traffic patterns and noise levels could occur and negatively  
17   affect citizens and the environment. *Roxana Witter, et al., Health Impact Assessment for*  
18   *Battlement Mesa, Garfield County, Colorado* (September 2010)

19       WHEREAS, a recent multi-species analysis of daily air samples was conducted by the  
20   National Oceanic and Atmospheric Administration’s Boulder Atmospheric Observatory  
21   (“BAO”) in Weld County near the Town of Erie. The study found that methane, propane, and  
22   butane – commonly referred to as “light alkanes” – were several times higher on average than  
23   values obtained in Pasadena, California. Citizens in Erie responded to the NOAA Report by  
24   asking oil and gas operators to permit the town to test for water and air contaminates in the  
25   vicinity of their operations. *Petron, et al. Hydrocarbon Emissions Characterization in the*  
26   *Colorado Front Range – A Pilot Study* (March 2012); *Steven S. Brown, 2011 Air Chemistry*  
27   *Study at the Boulder Atmospheric Observatory* (2012)

28       WHEREAS, another recent study has noted that residents living within one half mile or  
29   less from wells are at greater risk for health defects from oil and gas development than are  
30   residents who live more than one half mile from the wells. The 2012 study by the Colorado  
31   School of Public Health, University of Colorado, Anschutz Medical Campus urged that efforts

1 should be directed towards reducing air emission exposures for persons living and working near  
2 oil and gas wells during well completions. The report also noted that “[a]ssessments in Colorado  
3 have concluded that ambient benzene levels demonstrate an increased potential risk of  
4 developing cancer as well as chronic and acute non cancer health effects in Garfield County,  
5 Colorado where [natural gas development] is the only major industry other than agriculture.”  
6 *McKenzie LM, et al. Human Health Risk Assessment of Air Emissions from Development of*  
7 *Unconventional Natural Gas Resources, Sci Total Environ* (2012).

8 WHEREAS, the Front Range of Colorado in recent years has not met United States  
9 Environmental Protection Agency (“EPA”) standards for ozone pollution during certain months  
10 of the year, and is considered to be a non attainment area. Ozone forming air pollution  
11 measured along the Front Range shows similarities to ozone problems that occur in growing oil  
12 and gas exploration areas of western Wyoming and eastern Utah. Studies in both Wyoming and  
13 Utah are ongoing to determine the cause and potential impacts of the ozone conditions.

14 <http://deq.state.wy.us/aqd/Ozone%20Nonattainment%20Information.asp>

15 WHEREAS, on April 17, 2012 the EPA issued flexible, cost effective regulations to  
16 reduce harmful air pollution from the oil and natural gas industry. The rules include the first  
17 federal air standards for natural gas wells that are hydraulically fractured, along with  
18 requirements for several other sources of pollution in the industry that are not currently not  
19 regulated at the federal level. A key component of the regulations is the reduction in VOCs  
20 emitted through the use of green completion techniques to capture natural gas that escapes into  
21 the air.

22 <http://www.epa.gov/airquality/oilandgas/actions.html>

23 WHEREAS, a study released in 2012 by the Energy Institute of the University of Texas  
24 at Austin concluded that there is no direct connection between hydraulic fracturing of shale  
25 formations and reports of groundwater contamination. The study found that contamination issues  
26 ascribed to hydraulic fracturing are typically related to processes common to oil and gas  
27 operations, such as casing failures or poor cement jobs. Many reports of contamination can also  
28 be traced to above ground spills or other mishandling of wastewater produced from shale gas  
29 drilling.

30 [http://energy.utexas.edu/index.php?option=com\\_content&view=article&id=151&Itemid=160](http://energy.utexas.edu/index.php?option=com_content&view=article&id=151&Itemid=160)

31 WHEREAS, a recent report by the EPA found that groundwater pollution in domestic

1 ~~water supplies near Pavillion, Wyoming was likely related to hydraulic fracturing. There have~~  
2 ~~been reports claiming that water resources in Weld County and western Colorado, in Canada,~~  
3 ~~Ohio, Pennsylvania and New York and other states, have been contaminated by oil and gas~~  
4 ~~exploration, including hydraulic fracturing.~~

5 <http://yosemite.epa.gov/opa/admpress.nsf/0/EF35BBD26A80D6CE3852579600065C94E>

6 ~~WHEREAS, spills and releases of oil, gas and associated products occur in Colorado~~  
7 ~~frequently, on average more than one each day according to statistics maintained by the~~  
8 ~~Colorado Oil and Gas Conservation Commission (“COGCC”).~~

9 [http://www.denverpost.com/search/ci\\_18881512](http://www.denverpost.com/search/ci_18881512) Contamination has been identified at several  
10 ~~wells that were drilled within the City limits. Benzene levels at the Rider No. 1 Well near Trail~~  
11 ~~Ridge Middle School have exceeded the legal limits for benzene concentrations since 2006 and~~  
12 ~~still exceed those limits. High levels of benzene, naphthalene, ethylbenzene, and gasoline and~~  
13 ~~diesel organics were detected in soil and ground water tests conducted in January 2012 at the~~  
14 ~~Stamp Well, which is located approximately 500 feet west of Union Reservoir. It has been~~  
15 ~~determined that there are approximately 45,000 wells in Colorado and 15 inspectors who enforce~~  
16 ~~the COGCC rules. On average, each inspector is responsible for about 3,000 wells, meaning that~~  
17 ~~a well is inspected about once every three years.~~

18 ~~WHEREAS, oil and gas development and production, particularly in association with~~  
19 ~~horizontal drilling and hydraulic fracturing, entails industrial processes that may occur in close~~  
20 ~~proximity to populated areas of the City for many years to come. In addition to the noted health~~  
21 ~~and pollution concerns, there will also be increased heavy truck traffic on City roads, as well as~~  
22 ~~likely increased demand for emergency and other City services, which will come at a cost to the~~  
23 ~~City.~~

24 ~~WHEREAS, the City has authority pursuant to C.R.S. §31-15-401, §§29-20-101 *et seq.*,~~  
25 ~~34-60-101 *et seq.*, 30-28-101 *et seq.*, and Colorado Constitution Article XX, Section 6, to adopt~~  
26 ~~reasonable rules and regulations that govern oil and gas development. Cities and counties in~~  
27 ~~Colorado have always had authority to protect their citizens and to zone and regulate land uses,~~  
28 ~~including oil and gas operations, which are simply another industrial land use. As with many~~  
29 ~~aspects of local authority, unless the State Legislature has specifically and clearly provided that a~~  
30 ~~local government may not act, it retains that authority.~~

31 WHEREAS, oil and gas facilities are already subject to City review under the Land

1      ~~Development Code (“Title 15 of the Longmont Municipal Code”), which were adopted in 2000.~~  
2      ~~T~~he proposed amendments to the City’s 12-year old oil and gas regulations are intended to  
3      allow and encourage responsible oil and gas development, to insure adequate review of proposed  
4      oil and gas facilities within the City’s jurisdiction, and to provide adequate protection to the  
5      City’s citizens and resources to the extent allowed by law. ~~Local government regulation of the~~  
6      ~~impacts of oil and gas operations has been on going for many years, with local governments~~  
7      ~~successfully exercising that authority by issuing permits for thousands of oil and gas operations~~  
8      ~~around the state. The exercise of this local authority has not slowed the number of issued local~~  
9      ~~or state permits for oil and gas operations, which continue to rise. The Colorado Supreme Court~~  
10     ~~has determined that local governments are not expressly or impliedly “preempted” from~~  
11     ~~regulating oil and gas activities through their local land use and police power authority.~~  
12     ~~However, the courts have determined that state law preempts local regulation where the local~~  
13     ~~regulation materially impedes, frustrates or destroys the state interest in oil and gas activities, and~~  
14     ~~there is no possible construction of the local regulation which can be harmonized with the state~~  
15     ~~regulatory scheme of the COGCC.~~

16     ~~WHEREAS, the City’s regulations are intended to address the health, safety and land use~~  
17     ~~associated with these operations, to protect the health, safety and welfare of the citizens of the~~  
18     ~~City, and to exercise the City’s land use and police power authority to the full extent of the law.~~  
19     ~~At the same time the regulations recognize that the City, under current Colorado laws, may not~~  
20     ~~enact rules which would “materially impede or destroy the [COGCC’s] interest” in regulating oil~~  
21     ~~and gas development and operations. The City’s regulations respect the current status of the law,~~  
22     ~~while at the same time they implement proven and accepted best management practices which~~  
23     ~~are widely used by the oil and gas industry in the State of Colorado. For instance, it has been~~  
24     ~~estimated that a high percentage of all oil and gas wells that are completed in Colorado are~~  
25     ~~located at a distance of more than 1,000 feet from any occupied structure. Based upon~~  
26     ~~information provided to the COGCC, closed loop systems and other “environmentally friendly”~~  
27     ~~drilling and completion techniques have been incorporated into a large majority of recent oil and~~  
28     ~~gas activities. The regulations embrace these practices and encourage companies to use them on~~  
29     ~~any new operations within the City.~~

30     WHEREAS, the City has undertaken an exhaustive process to create its updated  
31     regulations. Starting in the fall of 2011, City Council, staff and retained experts have held

1 numerous study sessions, public meetings, open houses, and informational discussions with  
2 many stakeholder groups, including: Longmont citizens, the Colorado Oil and Gas Association  
3 (“COGA”), representatives of several oil and gas operators who operate wells in Longmont or  
4 may do so in the near future, staff from the COGCC, and others.

5 WHEREAS, the initial draft of these regulations was presented to the public and other  
6 stakeholders in February 2012. Revisions have been made to the initial draft based upon written  
7 or verbal comments received by staff and the City Council. Many hundreds of hours of staff and  
8 Council time have been dedicated to this project, which reflects the City’s best effort to exercise  
9 its powers within the confines of its constitutional and statutory authority to do so.

10

11 THE COUNCIL OF THE CITY OF LONGMONT, COLORADO, ORDAINS:

12 Section 1

13 In this Ordinance, ellipses indicate material not reproduced as the Council intends to  
14 leave that material in effect as it now reads.

15

16 Section 2

17 The Council repeals and replaces § 15.04.020(B)(32) of the Longmont Municipal Code to  
18 read as follows:

19

20 32. Oil and Gas Operations and Facilities.

21

22 a. Purpose Statement.

23 i. The purpose of this section is to facilitate the exploration and production  
24 of oil and gas resources within the City in a responsible manner. The City has a  
25 recognized, traditional authority and responsibility to regulate land use within its  
26 jurisdiction, ~~including oil and gas drilling, and~~ to provide for the orderly development  
27 and protection of the community. These regulations are intended as an exercise of this  
28 land use authority and the police power.

29 ii. These regulations are enacted to preserve the rights and privileges of both  
30 surface and mineral estate owners and lessors, while ensuring the health, safety, and  
31 general welfare of the present and future residents of Longmont and surrounding areas

1 and the preservation and protection of wildlife and the environment. The City's goal is to  
2 work cooperatively with oil and gas applicants and operators, affected individuals, groups  
3 or institutions, the Colorado Oil and Gas Conservation Commission, and other municipal,  
4 county, state and federal agencies and interested parties to ensure that potential land use  
5 and environmental conflicts are adequately addressed and mitigated.

6

7 b. Authority. This section is adopted pursuant to C.R.S.A § 31-15-401, Colorado  
8 Constitution Article XX, § 6 and C.R.S. §§ 29-20-11 et seq., 34-60-101 et seq., and 30-28-101 et  
9 seq. These standards are not intended to supersede state ~~and or~~federal laws, regulations, ~~and~~  
10 ~~or~~rules pertaining to oil and gas development, but rather are meant to supplement those  
11 requirements where appropriate and to address areas of regulation where none has been  
12 heretofore established by the state or federal governments.

13

14 c. Applicability.

15 i. All oil and gas well operations and facilities within the City ~~both on the~~  
16 ~~surface and below the surface~~are subject to the requirements of this section. In the event  
17 that the provisions of this section conflict with any other provisions of the code, this  
18 section shall supersede as it applies to oil and gas well operations and facilities.

19 ii. ~~In instances of directional and horizontal drilling where surface operations~~  
20 ~~associated with a well occur outside of the City limits but subsurface operations occur~~  
21 ~~within the City limits, the operator shall be required to comply with the applicable~~  
22 ~~process and standards contained in this section and the City will provide comments to the~~  
23 ~~COGCC through the LGD consultation process in conjunction with the COGCC permit~~  
24 ~~application.~~

25 iii. City oil and gas well permits issued pursuant to this section shall  
26 encompass within its authorization the right of the operator, its agents, employees,  
27 subcontractors, independent contractors, or any other person to perform that work  
28 reasonably necessary to conduct the activities authorized by the permit, subject to all  
29 other applicable City regulations and requirements.

30 iv. City oil and gas well permits may be issued for sites within the City  
31 excluding oil and gas well surface operations and facilities in residential zoning districts.

1       For purposes of this section, residential zoning shall include residential and mixed use  
2       planned unit development (PUD) districts and mixed use (MU) zoning districts that  
3       include~~d~~ existing or planned residential uses. Any proposed oil and gas well location not  
4       complying with the requirements of this subsection, may apply for an operational conflict  
5       special exception according to the procedures in this section. Oil and gas waste disposal  
6       facilities, including injection wells for disposal of oil and gas exploration and production  
7       wastes, commercial disposal facilities, centralized E&P waste management facilities, and  
8       subsurface disposal facilities are classified as heavy industrial uses and are limited to  
9       applicable industrial zoning districts.

10      d.     Exceptions.

11       i.     Oil and gas well facilities that are in existence on the effective date of this  
12       subsection or that are located within territory which thereafter is annexed to the City may  
13       continue operating without the issuance of a City oil and gas well permit. A City oil and  
14       gas well permit is required for any such grandfathered well prior to any of the  
15       following:oil and gas well location expansion, new wells on the well site, and operations  
16       including completing, recompleting, hydraulic fracturing, sidetracking, or twinning of a  
17       well. Existing oil and gas well and production facilities shall not be ~~considering~~  
18       considerednonconforming in terms of setback requirements where development has  
19       encroached within the required setbacks. The right to operate oil and gas well facilities  
20       terminates if the use thereof is discontinued for six months or more, other than by  
21       temporary abandonment or shut-in which is in conformance with COGCC rules.

22       ii.    Accessory equipment and pumping systems that are in existence on the  
23       effective date of this subsection or are located within territory which thereafter is annexed  
24       to the City may continue operating without the issuance of a City oil and gas well permit.  
25       Any renovation or repair of nonconforming accessory equipment or pumping systems  
26       shall be permitted without a City oil and gas well permit, provided the work does not  
27       increase the degree of nonconformity. Any replacement of existing accessory equipment  
28       or any addition of accessory equipment shall conform to this section subject to the  
29       applicable review process in this section. The replacement or addition of individual tanks,

1        treaters, or separators shall not require the remaining accessory equipment in an oil and  
2        gas well location to conform to the development standards in this section.

3

4        e.      Prohibitions.

5        The following oil and gas facilities are prohibited within the City of Longmont.

6            i.      Temporary housing at an oil and gas well location, including trailers,  
7        recreational vehicles, and similar temporary structures.

8

9        f.      Definitions.

10        For the purposes of these oil and gas well regulations only, term definitions are  
11        included at the end of this section.

12

13        g.      General Provisions.

14            i.      Application Process.

15

16            (a)     Applications subject to administrative review. The following are  
17        subject to administrative review:

18                  (1)    Oil and gas well~~s~~ operations and facilities that comply with  
19        all minimum and recommended standards in this section are subject to  
20        limited use site plan review.

21                  (2)    Seismic survey operations are subject to administrative  
22        review, except that seismic survey operations on City owned property may  
23        be subject to City Council approval.

24                  (3)    Pipelines that cross public property are subject to a work in  
25        right-of-way permit review.

26            (b)     Applications subject to public hearing review. The following are  
27        subject to public hearing review:

28                  (1)    Oil and gas well operations and facilities that meet  
29        minimum standard requirements and some or none of the recommended  
30        standards listed in this section are subject to conditional use site plan  
31        review.

(2) The following oil and gas facilities are subject to conditional use site plan review:

- (i) Injection wells for disposal of oil and gas exploration and production wastes;
- (ii) Commercial disposal facilities;
- (iii) Centralized E&P waste management facilities;
- (iv) Subsurface disposal facilities;
- (v) Other oil and gas facilities permitted by COGCC

(3) Variances and operational conflicts special exceptions.

**h. Submittal Requirements.**

Applications for a limited use or conditional use site plan for oil and gas well operations and facilities under this subsection shall contain all relevant information required for limited use and conditional use site plan applications contained in Appendix B of this development code and the specific information for oil and gas well operations and facilities contained in Table 8 in Appendix B of this development code.

- i. Issuance of oil and gas well permit for unsubdivided property. A City oil and gas well permit ~~for~~ may be granted on unsubdivided property without requiring the property to be subdivided.

j. Notice and procedures.

i. Limited use review. Applications for limited use review of oil and gas well operations and facilities are subject to the notice requirements of Section 15.02.040(H) and the minor application procedures requirements of Section 15.02.080.

ii. Conditional use review. Applications for conditional use review of oil and gas well operations and facilities are subject to the notice requirements of Section 15.02.040(H) and the major application procedure requirements of Section 15.02.050.

k. Review Criteria.

1                   i.        Limited use review. Applications for limited use review are subject to the  
2 limited use and site plan review criteria in Sections 15.02.090(E)(3) and 15.02.090(F)(5)  
3 respectively, in addition to the development standard compliance criteria listed below.

4                   ii.      Conditional use review. Applications for conditional use review are  
5 subject to the conditional use and site plan review criteria in Sections 15.02.060(D)(2)  
6 and 15.02.090(F)(5), respectively, in addition to the development standard compliance  
7 criteria listed below.

8

9                   l.        Compliance with development standards.

10                  i.        Applications for limited use review shall comply with all standards,  
11 including recommended standards in this section.

12                  ii.      Applications for conditional use review shall comply with the minimum  
13 standards in this section, unless a variance or special exception is granted by the  
14 decision making body, as well as conditions of approval specified in the  
15 conditional use agreement.

16

17                  m.      Variances and Operational Conflicts Special Exceptions.

18                  i.        Variance requests.

19                  (a)     Variance requests to the standards of this section may be requested  
20 by the applicant. All applications where a variance is requested shall be processed  
21 in accordance with the standards and procedures outlined in section  
22 15.02.060(F)(6) for variances.

23                  (b)     Requests for variances may include, but not be limited to, one or  
24 more of the following factors:

- 25                   (1)     Topographic characteristics of the site;  
26                   (2)     Duration of use of the facility;  
27                   (3)     Proximity of occupied structures to the facility;  
28                   (4)     Ownership status of adjacent and/or affected land;  
29                   (5)     Construction of adequate infrastructure to serve the project;

30                   and

(6) Planned replacement and/or upgrading of facility equipment.

(c) If the decision making body finds, based upon competent evidence in the record, that compliance with the regulations of this division is impractical, a variance may be granted by the decision making body permanently or for a period of defined duration.

ii. Operational conflicts special exception.

(a) Special exceptions to the standards of this section may be granted where the actual application of requirements of this section conflicts in operation with the requirements of the Oil and Gas Conservation Act or implementing regulations.

(b) All applications where a special exception due to operational conflicts is requested shall be processed as a public hearing and reviewed in a noticed public hearing by the decision making body acting in a quasi-judicial capacity.

(c) The applicant shall have the burden of pleading and proving an actual, material, irreconcilable operational conflict between the requirements of this section and the State's interest in oil and gas development in the context of a specific application.

(d) For purposes of this section, an operational conflict exists where actual application of a City condition of approval or regulation conflicts in operation with the state statutory or regulatory scheme, and such conflict would materially impede or destroy the State's interest in fostering the responsible, balanced development and production and utilization of the natural resources of oil and gas in the State of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources, and no possible construction of the regulation in question could be found that would harmonize it with the state regulatory scheme.

(e) Additional City requirements in areas regulated by the COGCC, which fall within City land use and police powers and which are necessary to protect the public health, safety and welfare under the facts of the specific

1 application presented, and which do not impose unreasonable burdens on the  
2 applicant and which do not materially impede the state's goals, shall be presumed  
3 not to present an operational conflict.

4 (f) If the decision making body finds, based upon competent evidence  
5 in the record, that compliance with the requirements of this section shall result in  
6 an operational conflict with the state statutory and regulatory scheme, a special  
7 exception to this section may be granted, in whole or in part, but only to the extent  
8 necessary to remedy the operational conflict.

9 (g) The decision making body may condition the approval of a special  
10 exception as necessary to protect the public health, safety and welfare by  
11 mitigating any adverse impacts arising from the grant of approval. Any such  
12 condition shall be designed and enforced so that the condition itself does not  
13 conflict with the requirements of the COGCC.

14 (h) A final decision by the City on the exception request is subject to  
15 judicial review pursuant to Rule 106(a)4 of the Colorado rules of civil procedure.  
16

17 n. Third Party Technical Review.

18 i. Upon determination that the application is complete, the City may require  
19 that the application materials, including requests for minor modifications, variances, and  
20 operational conflicts special exceptions, be submitted to a technical consultant deemed by  
21 the City to be appropriate and necessary to complete the review.

22 ii. Reasonable costs associated with such review shall be paid by the  
23 applicant.  
24

25 o. Sales and Use Tax License Requirement.

26 i. Operators shall obtain and maintain a City sales and use tax license prior  
27 to commencing operations.

28 ii. Operators must conform to applicable provisions of Chapter 6.04 of the  
29 Longmont Municipal Code related to licensing.  
30

31 p. Building Permit Requirement.

1           The operator shall obtain building permits prior to the construction of any above  
2 ground structures to the extent required by the City building and fire codes then in effect.  
3

4           q.       Approval Period.

5           Approval of limited use or conditional use applications for oil and gas well  
6 operations and facilities are valid for two years from the date of approval until the start of  
7 the operation, unless the decision making body grants a longer approval period.  
8

9           r.       Extensions.

10          Requests for extensions to the approval period for oil and gas well operations and  
11 facilities shall be reviewed according to the procedures outlined in Section 15.02.040(O).

12          s.       Issuance of Oil and Gas Well Permit. The following items are required by the  
13 City prior to issuance of a City oil and gas well permit:

14           i.       Approval of a limited use site plan or conditional use site plan, as  
15 applicable.

16           ii.      Satisfaction of any conditions of approval of the above applications prior  
17 to commencement of operations.

18           iii.     Copies of:

19           (a)     Applicable executed agreements,

20           (b)     Applicable transportation related permits,

21           (c)     A City sales and use tax license,

22           (d)     Required liability insurance, and

23           (e)     All necessary state or federal permits issued for the oil and gas  
24 well operation and facilities.

25           iv.      Financial securities, or payment of fees, as applicable.

26

27           t.       Right to Enter / Inspections.

28           i.       Right to Enter - For the purpose of implementing and enforcing this  
29 section, duly authorized City personnel or contractors may enter onto subject property  
30 upon notification of the permittee, lessee or other party holding a legal interest in the  
31 property. If entry is denied, the City shall have the authority to discontinue application

1 processing, revoke City approved permits and applications, or to obtain an order from a  
2 court of competent jurisdiction to obtain entry.

3           ii.       Operator contact - The applicant shall provide the telephone number of a  
4 contact person who may be reached 24 hours a day for purposes of being notified of any  
5 proposed City inspection under this Section or in case of emergency. Any permitted oil  
6 and gas operations and facilities may be inspected by the City at any time, to ensure  
7 compliance with the requirements of the City approved permit, provided that at least one  
8 hour's prior notice is given to the contact person at the telephone number supplied by the  
9 applicant. Calling the number (or leaving a message on an available answering machine  
10 or voice mail service at the number) at least one hour in advance of the proposed  
11 inspection shall constitute sufficient prior notice if the contact person does not answer.  
12 By accepting an approved City oil and gas well permit, the applicant grants consent to  
13 such inspections. The cost of any City inspection deemed reasonable and necessary to  
14 implement or enforce the regulations for the applicant shall be borne by the applicant,  
15 provided such inspections and fees are not in conflict with COGCC inspections and rules.  
16

17           u.       Enforcement and Penalties.

18            i.       Oil and gas operators working without or not in compliance with a City oil  
19 and gas well permit.

20           Any operator engaging in oil and gas well operations who does not obtain a City  
21 oil and gas well permit pursuant to these regulations, who does not comply with City oil  
22 and gas well permit requirements, or who acts outside the jurisdiction of the City oil and  
23 gas well permit may be enjoined by the City from engaging in such oil and gas well  
24 operations and may be subject to such other criminal penalties or civil liability as may be  
25 prescribed by law. If the City prevails in whole or part in any action, the operator shall  
26 pay all reasonable attorney fees and expert costs incurred by the City.

27            ii.      Suspension of City oil and gas well permit.

28           If the City determines at any time that there is a violation of the conditions of the  
29 City oil and gas well permit or that there are material changes in an oil and gas operation  
30 or facility as approved by the permit, the development services manager or designee may,  
31 for good cause, temporarily suspend the City oil and gas well permit. In such case, upon

1           oral or written notification by the development services manager or designee, the  
2           operator shall cease operations immediately. The development services manager or  
3           designee shall forthwith provide the operator with written notice of the violation or  
4           identification of the changed condition(s). The operator shall have a maximum of fifteen  
5           (15) days to correct the violation. If the violation is not timely corrected, the permit may  
6           be further suspended pending a revocation hearing. The operator may request an  
7           immediate hearing before the Planning and Zoning Commission regarding the  
8           suspension. The Planning and Zoning Commission shall hold the hearing within ten (10)  
9           days of the operator's written request.

10           iii.       Revocation of City oil and gas well permit.

11           The Planning and Zoning Commission may, following notice and hearing, revoke  
12           a City oil and gas well permit granted pursuant to these regulations if any of the activities  
13           conducted by the operator violate the conditions of the City oil and gas well permit or  
14           these regulations, or constitute material changes in the oil and gas operation approved by  
15           the City. No less than fourteen (14) days prior to the revocation hearing, the City shall  
16           provide written notice to the permit holder setting forth the violation or the material  
17           changes and the time and date for the revocation hearing. Notice of the revocation hearing  
18           shall be published in a newspaper of general circulation not less than five(5) days prior to  
19           the hearing. Following the hearing, the City may revoke the oil and gas permit or may  
20           specify a time by which action shall be taken to correct any violations of the oil and gas  
21           permit to avoid revocation.

22           iv.       Transfer of permits.

23           A City oil and gas well permit may be transferred only with the written consent of  
24           the City. The City shall not unreasonably withhold its consent, but The City shall ensure,  
25           in approving any transfer, that the proposed transferee can and will comply with all the  
26           requirements, terms, and conditions contained in the City oil and gas well permit and  
27           these regulations, that such requirements, terms, and conditions remain sufficient to  
28           protect the health, welfare, and safety of the public, and the environment; and that an  
29           adequate guaranty of financial security related to the City approved permit can be timely  
30           made.

31           v.       Judicial review.

1           A final decision by the City on a City oil and gas well permit is subject to judicial  
2 review pursuant to Rule 106(a)(4) of the Colorado rules of civil procedure.

3

4       v.      General Development Standards.

5           The following sections provide minimum and/or recommended standards that will  
6 apply to any oil & gas well operations and production facilities, and shall be in addition  
7 to any applicable state and federal standards. Use of consolidated well pads and  
8 directional and horizontal drilling when and where appropriate, closed loop (“pitless”)  
9 systems, appropriate water quality monitoring systems, and other techniques, including  
10 current and available best management practices, are intended to protect the integrity and  
11 property rights and/or values of the surface estate and subsurface resources and ensure  
12 the health, safety, and general welfare of the present and future residents of Longmont  
13 and surrounding areas and the preservation and protection of wildlife and the  
14 environment.

15          i.      Compliance with State and Federal Regulations, Rules, Orders and  
16                    Conditions.

17           In addition to the provisions contained in these regulations, oil and gas  
18 operations and facilities within the City of Longmont shall comply with all  
19 applicable state and federal regulations, rules, orders and conditions.

20          ii.     Multi Well Sites and Directional/Horizontal Drilling.

21           Oil and gas well operations and facilities will be consolidated on multi  
22 well sites and directional and horizontal drilling techniques will be used whenever  
23 possible and appropriate. In determining appropriateness, the benefits of  
24 consolidation and the use of directional and horizontal drilling, such as drilling  
25 from outside of a prohibited zoning district, minimizing surface disturbance and  
26 traffic impacts and increasing setbacks, will be weighed against the potential  
27 impacts of consolidated drilling and production activities on surrounding  
28 properties, wildlife and the environment.

29          iii.    Well Facilities Siting.

30           Oil and gas well facilities and operations shall be located and designed to  
31 minimize impacts on surrounding uses, including residential areas, schools,

medical facilities, churches, day care and retirement centers, and other places of public assembly, and natural features such as distinctive land forms, vegetation, river or stream crossings, ridgelines and vistas, City-owned and City-designated open space areas, and other designated landmarks to the maximum extent practical. Efforts shall be made to avoid adversely impacting the well spacing requirements of the COGCC or the ability of the oil and gas well operator to develop the resource. Facilities should be located at the base of slopes where possible and access roads should be aligned to follow existing grades and minimize cuts and fills.

iv. Cultural Resources.

Applications for all oil and gas well facilities and operations may require a cultural resources report, as determined by the City. The report, if required, will be prepared by a qualified professional, and meet state of Colorado requirements, including a complete written description and identification of the cultural resources on the site and within the surrounding area of the proposed oil and gas well facility and will include mitigation measures, if necessary, to ensure that appropriate actions are taken to avoid or minimize negative impacts to the maximum extent practical.

v. Drainage.

Oil and gas well operations and facilities shall comply with applicable City drainage requirements and standards.

vi. Hazard Areas.

Oil and gas well operations and facilities in hazard areas, including floodplains and man-made (e.g., airport) conditions, and in other areas where such operations would constitute a hazard to public health and safety or to property should be avoided. Land should not be developed for oil and gas well facilities and operations until hazards have been identified and avoided, removed, or until the applicant can show that the impact of the hazard(s) can be mitigated to the maximum extent practical. All well facilities and operations conducted within a floodplain shall comply with title 20 of the Longmont Municipal Code pertaining to floodplain regulations.

1                   vii.     Emergency Preparedness.

2                   Oil and gas well operations and facilities shall provide the City with an  
3                   acceptable written emergency response plan for the potential emergencies that  
4                   may be associated with the operation of the facilities. This shall include, but not  
5                   be limited to, any or all of the following:

6                   (a)      Explosions, fires, gas or water pipeline leaks or ruptures,  
7                   hydrogen sulfide or other toxic gas emissions, and hazardous material  
8                   vehicle accidents or spills.

9                   (b)      Operation-specific emergency preparedness plans are  
10                  required for any oil and gas operation that involves drilling or penetrating  
11                  through known zones of hydrogen sulfide gas.

12                  (c)      The plan shall include a provision for the operator to  
13                  reimburse the appropriate emergency response service provider for costs  
14                  incurred in connection with the emergency.

15                  viii.     Hazardous Materials.

16                  Full disclosure, consistent with COGCC requirements, including material  
17                  safety data sheets of all hazardous materials that will be transported on any public  
18                  or private roadway within the City for the oil and gas operation, shall be provided  
19                  to the Longmont hazards prevention office. This information will be treated as  
20                  confidential and will be shared with other emergency response personnel only on  
21                  an as needed basis.

22                  ix.        Safety/Security.

23                  The operator of oil and gas facilities shall comply with COGCC  
24                  requirements for initial and ongoing site security and safety measures. Such  
25                  requirements shall adequately address security fencing, the control of fire hazards,  
26                  equipment specifications, structural stabilization and anchoring, and other  
27                  relevant safety precautions.

28                  x.         Maintenance and General Operation.

29                  (a)      The operator shall at all times keep the wellsites, roads, rights-of-  
30                  way, facility locations, and other oil and gas operations areas safe and in good  
31                  order, free of noxious weeds, litter and debris.

- (b) The operator shall dispose of all water, unused equipment, litter, sewage, waste, chemicals and debris off of the site at an approved disposal site.
  - (c) The operator shall promptly reclaim and reseed all disturbed sites in conformance with COGCC rules.

xi. Indemnification.

Each City oil and gas well permit issued by the City shall include the following language:

"Operator does hereby expressly release and discharge all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or its successors or assigns may have, or claim to have, against the City and/or its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the actions or inactions of the Operator or its agents, or caused by or arising out of, that sequence of events which occur from the Operator's or its agents actions or inactions. The Operator shall fully defend, protect, indemnify, and hold harmless the City and/or its departments, agents, officers, servants, successors, assigns, sponsors, or volunteers, or employees from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the City and/or its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by Operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the Operator under any permit, and the Operator agrees to indemnify and hold harmless the City and/or its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the City and/or, its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of their acts or omissions occurring on the drill site or operation site or in the course and scope of inspecting, permitting or monitoring the oil/gas wells. Liability for any

1           action or inaction of the City is limited to the maximum amount of recovery under the  
2           Colorado Governmental Immunity Act.”

3           xii. Financial Securities/Liability Insurance.

4           a. Minimum standard.

5           (1) Performance security.

6           The applicant may be required to provide reasonable performance  
7           security to the City through a minor improvement security agreement as  
8           outlined in Section 15.02.120(A)(1)(b), in an amount to be determined by  
9           the City and in a form acceptable to the City as outlined in 15.05.210(B) to  
10          ensure compliance with the City oil and gas well permit and with the  
11          requirements set forth in this section. Conditions of approval covered by  
12          this performance security shall consist of measures addressing specific  
13          impacts affecting the general public and any damage to public  
14          infrastructure. Reclamation and other activities which fall under COGCC  
15          jurisdiction are exempted from this performance guarantee coverage.

16           (2) Liability insurance.

17           For any oil or gas well facility permitted under this section, the  
18          applicant shall submit a certificate of insurance to the economic  
19          development department, showing that a policy of comprehensive general  
20          liability insurance or a self-insurance program approved by the Colorado  
21          Insurance Commission, in the amount of no less than one million dollars  
22          (\$1,000,000) per occurrence, insuring the applicant against all claims or  
23          causes of action made against the applicant for damages arising out of the  
24          oil or gas well operations. The policy shall be written by a company  
25          authorized to do business in the state of Colorado, unless the applicant  
26          provides evidence to the City that the applicant is adequately self-insured.  
27          The certificate shall require at least thirty (30) days' notice to the city prior  
28          to termination of coverages for any reason.

29           b. Recommended standard.

30           (1) Performance security.

1                   The applicant may be required to provide reasonable performance  
2                   security to the City through a minor improvement security agreement as  
3                   outlined in Section 15.02.012(A)(1)(b), in an amount to be determined by  
4                   the City and in a form acceptable to the City to ensure compliance with  
5                   requirements set forth in this section and specific conditions in the City oil  
6                   and gas permit. Conditions of approval covered by this performance  
7                   security shall consist of measures addressing specific impacts that may  
8                   affect the general public and any damage to public infrastructure.

9                   xiii. Impact fees.

10                  Every permit issued by the City under this section shall require the  
11                  applicant or operator to pay a fee that is sufficient to pay for all impacts which the  
12                  proposed operation will cause to facilities owned or operated by the City or used  
13                  by the general public, including, but not limited to: repair and maintenance of  
14                  roads, bridges and other transportation infrastructure; improvements made or to  
15                  be made by the City to accommodate the operations and to protect public health,  
16                  safety and welfare; costs incurred to process and analyze the application,  
17                  including the reasonable expenses paid to independent experts or consultants; and  
18                  impact fees comparable to those charged to other businesses or industries who  
19                  operate within the City which are not specifically mentioned herein, and other  
20                  impacts. The City shall establish a mechanism to assess and obtain payment of  
21                  such fees, subject to the right of the City to request additional funds if the fees paid  
22                  prove to be insufficient, or to refund surplus funds to the operator if the fees paid  
23                  exceed the true cost of the impacts.

24                  xiv. Operation Plan.

25                  Applications for all oil and gas well facilities and operations will include  
26                  an operation plan, which should, at a minimum, include the operator's method  
27                  and schedule for drilling, well completion, transportation, resource production,  
28                  and post-operation activities.

29  
30                  w. Specific Development Standards

1           i.       Setbacks/Locationof Wells and Production Facilities from Structures,  
2       Platted Residential Lots, Parks, Sports Fields and Playgrounds, and Designated Outside  
3       Activity Areas.

4           (a)      Recommended standard.

5           Wells and production facilities shall be 750 feet or more from any  
6       occupied building or occupied building permitted for construction, platted  
7       residential lots, or park, sports field, playground or designated outside  
8       activity area.

9           ii.      Setbacks/Locationof Proposed Structures, Platted Residential Lots, Parks,  
10      Sports Fields and Playgrounds, Designated Outside Activity Areas, Public Roads, and  
11      Major Above Ground Utility Lines from Existing Wells and Production Facilities.

12          Proposed occupied structures, platted residential lots, sports fields and  
13       playgrounds, and designated outside activity areas shall be located 750 feet or  
14       more from existing oil and gas wells and production facilities. Proposed  
15       unoccupied structures shall comply with local fire code requirements. Proposed  
16       public roads and major above ground utility lines shall be located 150 feet or  
17       more from existing oil and gas wells and production facilities

18           iii.     Setbacks/Locationof Proposed Structures, Platted Residential Lots, Sports  
19       Fields and Playgrounds from Plugged and Abandoned or Dry and Abandoned Wells.

20          Proposed occupied structures or additions, sports fields or playgrounds  
21       shall be located 150 feet or more from existing plugged and abandoned or dry and  
22       abandoned oil and gas wells. Proposed unoccupied structures shall be located 50  
23       feet or more from existing plugged and abandoned or dry and abandoned wells.  
24       No proposed residential lots shall include any portion of plugged and abandoned  
25       or dry and abandoned oil and gas wells.

26           iv.      Visual Mitigation.

27           (a)      Analysis.

28          Applications for all oil and gas facilities may be required to  
29       include a visual impact analysis. The analysis, if required, shall include  
30       photographic simulations of the site from nearby public rights-of-way and  
31       locations as determined by the development services manager or designee

1 and proposed impact mitigation measures as indicated below. The  
2 development services manager or designee will determine the appropriate  
3 land use(s) from which a photographic simulation of the site shall be  
4 provided based upon topography, existing vegetative and/or structural  
5 screening, and the linear distance from the proposed oil and gas facility to  
6 the respective land use(s).

7 (b) Mitigation.

8 (1) Methods for appropriate visual impact mitigation include,  
9 but are not limited to, use of low profile tanks, facility painting, vegetative  
10 or structural screening, berthing, or minor relocation of the facility to a  
11 less visible location on the respective site.

12 (2) On-site relocation may be necessary where the proposed  
13 facility would cause visual impacts to natural ridgelines, rock  
14 outcroppings, or other distinct geologic formations, provided relocation  
15 does not adversely impact the well spacing requirements of the COGCC or  
16 the ability of the oil and gas well operator to develop the resource.

17 (3) Where the painting of a facility or any structural screening  
18 (i.e., fence or wall) is required as a method of impact mitigation, such  
19 facility and screening shall be painted a uniform, non-contrasting, non-  
20 reflective color tone. The facility or structural screening paint color shall  
21 be matched to the land, not the sky, and shall be slightly darker than the  
22 adjacent landscape.

23 v. Noise

24 (a) Minimum standard.

25 Sound emission levels and mitigation, at a minimum shall be in  
26 accordance with the standards as adopted and amended by COGCC.

27 (b) Recommended standard.

28 (1) Sound emission levels shall be in accordance with the  
29 standards as adopted and amended by COGCC.

30 (2) The operator shall provide additional noise mitigation that  
31 may be required by the City. In determining such additional noise

mitigation, specific site characteristics shall be considered, including, but not limited to, the following:

(i) Nature and proximity of adjacent development (design, location, type);

(ii) Prevailing weather patterns, including wind directions;

(iii) Vegetative cover on or adjacent to the site or topography.

(3) Further, based upon the specific site characteristics, the nature of the proposed activity, and its proximity to surrounding development, and type and intensity of the noise emitted, additional noise abatement measures above and beyond those required by the COGCC may be required by the City. The level of required mitigation may increase with the proximity of the facility to existing residences and platted subdivision lots and/or the level of noise emitted by the facility. One ~~or~~ or more of the following additional noise abatement measures shall be provided by the operator if requested by the City:

(i) Acoustically insulated housing or covers enclosing any motor or engine;

(ii) Screening of the site or noise-emitting equipment by a wall or landscaping;

(iii) Solid wall of acoustically insulating material surrounding all or part of the facility;

(iv) A noise management plan specifying the hours of maximum noise and the type frequency, and level of noise emitted;

(v) Use of electric-power engines and motors, and pumping systems; and/or

(vi) Construction of buildings or other enclosures may be required where facilities create noise and visual impacts that cannot otherwise be mitigated because of proximity, density, and/or intensity of adjacent land use.

1 vi. Vibration.

2 All mechanized equipment associated with oil and gas wells and  
3 production facilities shall be anchored so as to minimize transmission of vibration  
4 through the ground according to COGCC rules.

5 vii. Lighting.

6 All on-site lighting used in the construction of the well and its  
7 appurtenances shall comply with the COGCC Rule 803. All permanent lighting  
8 fixtures installed on the site shall comply with the City of Longmont lighting  
9 standards found in Section 15.05.140, Outdoor Lighting.

10 viii. Water Protection.

11 Rivers, streams, reservoirs, irrigation ditches, groundwater, wetlands and  
12 other water bodies are considered important water systems for the City. The value  
13 of both surface and ground water are significant and the City finds that protection  
14 of water resources is of primary importance, and must be adequately addressed by  
15 any applicant for an oil and gas facility permit.

16 (a) Oil and gas well operations shall not adversely affect the quality or  
17 quantity of surface or subsurface waters. If the COGCC designates a water body  
18 as part of a public water system, oil and gas well operations shall be consistent  
19 with COGCC Rule 317.B Public Water System Protection.

20 (b) Oil and gas well operations shall not adversely affect the water  
21 quality, quantity or water pressure of any public or private water wells.

22 ix. Setbacks to Water Bodies.

23 (a) Minimum standard.

24 Oil and gas well operations and facilities and operations shall  
25 comply with setback requirements for river/stream corridors and riparian  
26 areas, and wetlands under Section 15.05.020(E). If the water body is  
27 associated with a designated outside activity area, the setback from the  
28 water body shall be consistent with the setback for the outside activity  
29 area. If the water body is classified as part of a public water system, oil  
30 and gas well operations shall be consistent with COGCC Rule 317.B  
31 Public Water System Protection.

(b) Recommended standard.

Oil and gas well operations and facilities shall be located 300 feet or more from the normal high water mark of any water body. If the water body is associated with a designated outside activity area, the setback from the water body shall be consistent with the setback for the outside activity area. If the COGCC designates the water body as part of a public water system, oil and gas well operations shall be consistent with COGCC Rule 317.B Public Water System Protection.

x. Water Quality Testing and Monitoring.

(a) The applicant shall comply with COGCC water well testing and water-bearing formation protection procedures and requirements.

(b) If the City determines that additional water quality testing or monitoring is required, the applicant shall submit a water quality monitoring plan to the City for review and approval.

(c) The plan will outline a monitoring program to establish a baseline for and monitor water quality conditions and pollutants in surface or groundwater that could be impacted by production of oil or natural gas from any well in an adjacent single or consolidated well site. The plan, at a minimum, will include the following:

(1) The type and number of wells needed to establish baseline groundwater quality upgradient and downgradient of the proposed oil and gas operations, including depth, materials of construction and location of wells on and around the site:

(2) The constituents to be sampled for, taking into account State of Colorado groundwater standards and any materials used in the oil and gas operations that could affect groundwater:

(3) The type and frequency of samples to be collected and analyzed before operations start, during operations and after operations have been completed:

(4) The analytical methods and reporting levels to be used:

(5) The proposed frequency of reporting results to the City and COGCC.

(d) The plan shall be based on hydrologic studies or equivalent information showing the subsurface conditions and mobility of the groundwater aquifer(s) that will be affected by the oil and gas operations. The plan shall be prepared by an engineer registered in the State of Colorado with experience in groundwater monitoring and subsurface condition investigations.

(e) The procedures and provisions in the approved plan shall be implemented by the oil and gas well operators prior to any construction or operations on the site. Oil and gas well operators shall fund the development and implementation of the water quality monitoring plan and program for the duration of operations on the site and for a minimum of five (5) years following completion of operations and abandonment of the well(s). All monitoring records related to the program shall be provided to the City as soon as they are available to the operator.

## xi. Waste and Wastewater Disposal & Closed Loop/Pitless System.

(a) Minimum Standard.

All water, waste, chemicals, fluids, solutions or other solid materials or liquid substances produced or discharged by the operation of the oil and gas well's facilities shall be treated and disposed of in accordance with all applicable rules and regulations of the governmental authorities having jurisdiction over such matters.

**(b) Recommended Standard.**

(1) No pits, production, reserve, waste, or otherwise, shall be constructed or maintained on the site and any produced water or waste and chemicals, fluids, hydrocarbons, fracturing solutions or other solid materials or liquid substances of any kind shall not be discharged on the site and shall be discharged and held only in a “closed loop system” comprised of sealed storage tanks, commonly used for such purposes in the industry, which contents shall be promptly removed from the site and

disposed of off of the site at a licensed disposal site, in accordance with COGCC or other applicable rules and regulations.

(2) Drilling or operation of any waste water or other injection or disposal wells is prohibited. Except to the extent that materials are injected into a well as part of normal and ordinary drilling, completion and production operations, an operator shall not inject or re-inject any fluid, water, waste, fracking material, chemical or toxic product into any well.

## xii. Production Site Containment.

Berms or other containment devices shall be constructed around crude oil condensate, or produced water and waste storage tanks and shall enclose an area sufficient to contain and provide secondary containment for 150 percent of the largest single tank. Berms or other secondary containment devices shall be sufficiently impervious to contain all spilled or released material. No more than two storage tanks shall be located within a single berm in high density areas. All berms and containment devices shall be maintained in good condition. No potential ignition sources shall be allowed inside the secondary containment area.

### xiii. Spill, Release, Discharge.

The operator shall implement best management practices in compliance with applicable state and federal laws to avoid and minimize the spill, release or discharge of any pollutants, contaminants, chemicals, solid wastes, or industrial, toxic or hazardous substances or wastes at, on, in, under, or near the site. Any such spill, release or discharge, including without limitation, of oil, gas, grease, solvents, or hydrocarbons that occurs at, on, in, under, or near the site shall be remediated by the operator and notice provided by the operator in compliance with applicable state and federal laws, rules and policies.

#### xiv. Stormwater Management.

The construction and operation of oil and gas wells and production equipment, including access roads and storage areas for equipment and materials, shall meet all stormwater management and pollution prevention requirements of the Colorado Department of Public Health and Environment and any applicable requirements of LMC Chapter 14.26.

1           xv. Pipeline and Gathering Systems.

2           The design, construction, cover, and reclamation of all pipelines and  
3           gathering lines for oil and gas operations shall be subject to the COGCC rules.  
4           The alignment location of any approved pipeline or gathering system shall be  
5           recorded against the respective property in the records of the County Clerk and  
6           Recorder. The location of any pipelines and gathering lines which are proposed for  
7           abandonment shall also be recorded against the respective property in the records  
8           of the County Clerk and Recorder upon abandonment.

9           xvi. Air Quality.

10          (a) Air emissions from the operation shall be, at a minimum, in  
11          compliance with the permit and control provisions of the Colorado Air Quality  
12          Control Program, Title 25, Section 7, C.R.S.

13          (b) ~~Oil and gas well operations are prohibited from causing airborne~~  
14          ~~emissions in concentrations that are known to cause negative health impacts.~~

15          (c) The operator shall make reasonable efforts to minimize methane  
16          emissions by using all feasible “green completion” techniques, pursuant to  
17          COGCC Rules Section 805(3) and the installation of “low bleed” pneumatic  
18          instrumentation and closed loop systems.

19          (d) To the maximum extent practicable, all fossil fuel powered engines  
20          used on site shall employ the latest emission-reduction technologies.

21          (e) The use of electric-power engines and motors, and pumping  
22          systems are recommended to reduce airborne emissions wherever practical given  
23          an oil and gas well facility’s proximity to available electric transmission lines.

24           xvii. Odor/Dust Containment.

25           Oil and gas facilities and equipment shall be operated in such a manner  
26          that odors and dust do not constitute a nuisance or hazard to public health,  
27          safety, welfare, and the environment, including compliance with COGCC Rules  
28          section 805.b.(1) and LMC Section 15.05.160(D) regarding use of best available  
29          technologies to control odor.

30           xviii. Wildlife and Habitat.

1                   Oil and gas facilities shall comply with federal and state requirements  
2 regarding the protection of wildlife and habitat, including the COGCC wildlife  
3 resource protection rules, and the provisions of LMC section 15.05.030, "Habitat  
4 and Species Protection". The applicant shall implement such procedures as  
5 recommended by the Colorado Division of Wildlife after consultation with the  
6 City Natural Resources staff. ~~The applicant shall not engage in activities that the~~  
7 ~~Colorado Division of Wildlife determines threaten endangered species.~~

8                   xviii. Reclamation, Re-vegetation and Well Abandonment.

9                   (a) Site Vegetation Analysis.

10                  Applications for oil and gas well facilities shall include an analysis  
11 of the existing vegetation on the site to establish a baseline for re-  
12 vegetation upon abandonment of the facility or upon final reclamation of  
13 the site. The analysis shall include a written description of the species,  
14 character, and density of existing vegetation on the site and a summary of  
15 the potential impacts to vegetation as a result of the proposed operation.

16                  (b) Re-vegetation.

17                  Applications for oil and gas facilities shall include a copy of any  
18 COGCC accepted interim and final reclamation procedures and  
19 consultation with City Natural Resources staff regarding site specific re-  
20 vegetation plan recommendations.

21                  (c) Well Abandonment.

22                  Operators shall comply with COGCC rules regarding well  
23 abandonment. Upon the plugging and abandonment of a well, the operator  
24 shall provide surveyed coordinates of the abandoned well and a physical  
25 marker of the well location.

26                  xix. Transportation Impacts, Road and Access.

27                  (a) Transportation Impact Study.

28                  (1) Applications for all oil and gas well facilities may be  
29 required to include a transportation impact study, which shall clearly  
30 identify and distinguish the impacts to City roads and bridges related to  
31 facility construction, operations, and ongoing new traffic generation from

1 other impacts. Transportation impact studies shall be prepared in  
2 accordance with the City standards requirements or other guidelines as  
3 provided by the City engineer. The process for mitigation of  
4 transportation impacts typically will include a plan for traffic control,  
5 evidence of the receipt of all necessary permits, ongoing roadway  
6 maintenance, and improving or reconstructing City roads as necessary,  
7 including providing financial assurance.

8 (2) A traffic control plan shall be prepared for each phase of  
9 operations where City roads will be utilized for transportation of materials  
10 in support of site construction and/or operations.

11 (3) In the event that public road improvements are required to  
12 accommodate an oil and gas well facility, engineered drawings prepared  
13 by a Colorado licensed civil engineer shall be approved prior to permitting  
14 work in the right-of-way. Such drawings shall conform to City standards.  
15 Financial assurance shall be required for the construction or reconstruction  
16 of all public roads.

17 (b) Maintenance.

18 In the event that the activities of an operator cause any City  
19 roadway to become substandard, the City may require the operator to  
20 provide ongoing maintenance of the applicable substandard City roadway.  
21 Such maintenance may include dust control measures and roadway  
22 improvements such as graveling, shouldering, and/or paving as determined  
23 in the Transportation Impact Study.

24 (c) Site Access

25 Any access to a property from a City street requires a City-issued  
26 access permit. Permits are revocable upon issuance of a stop work order or  
27 if other permit violations occur. The permitting and construction of site  
28 accesses shall comply with the City design standards.

29 (d) Private Access Roads

30 For private access roads connecting oil and gas well facilities with  
31 a public street or state highway, the applicant shall provide written

1 documentation as part of the application demonstrating that it has the legal  
2 right to use such road(s) for the purpose of accessing the facilities. All  
3 private roads used to access oil and gas well facilities shall be graded for  
4 appropriate drainage, and surfaced and maintained to provide adequate  
5 access for oil and gas operation vehicles and emergency vehicles. The  
6 operator shall comply with City standards regarding vehicle tracking and  
7 dust mitigation. The operator shall also enter into an agreement with the  
8 private road owner regarding maintenance and reimbursement for  
9 damages.

10 (e) State Highway Access.

11 If access is directly to a state highway, the applicant must have an  
12 approved State Highway Access Permit for the proposed facility.

13 xx. Signs.

14 Oil and gas well facilities shall have signage consistent with the COGCC  
15 rules. In addition, each well site and production site shall have posted in a  
16 conspicuous place a legible sign of not less than three square feet and not more  
17 than six square feet bearing the current name of the operator, a current phone  
18 number including area code, where the operator may be reached at all times, and  
19 the name or number of the lease and the number of the well printed thereon. The  
20 sign shall warn of safety hazards to the public and shall be maintained on the  
21 premises from the time materials are delivered for drilling purposes until the well  
22 site and production site is abandoned.

23  
24 x. Definitions.

25 (a) For purposes of these oil and gas well regulations only, the following  
26 words shall have the following definitions:

27 *Act* means the Oil and Gas Conservation Act of the State of Colorado.

28 *Ancillary Facilities* means all of the equipment, buildings, structures, and  
29 improvements associated with or required for the operation of a well site, pipeline, or  
30 compressor facility. Ancillary facilities include, but are not limited to, roads, well pads,  
31 tank batteries, combustion equipment and exclude gathering lines.

1           *Best Management Practices (BMPs)* are practices that are designed to prevent or  
2 reduce impacts caused by oil and gas operations to air, water, soil, or biological  
3 resources, and to minimize adverse impacts to public health, safety and welfare,  
4 including the environment and wildlife resources.

5           *Centralized Exploration and Production (E&P) Waste Management*

6           *Facility* means a facility, other than a commercial disposal facility regulated by the  
7 Colorado Department of Public Health and Environment, that (1) is either used  
8 exclusively by one owner or operator or used by more than one operator under an  
9 operating agreement; and (2) is operated for a period greater than three (3) years; and (3)  
10 receives for collection, treatment, temporary storage, and/or disposal produced water,  
11 drilling fluids, completion fluids, and any other exempt E&P wastes as defined by the  
12 COGCC Rules that are generated from two or more production units or areas or from a  
13 set of commonly owned or operated leases. This definition includes oil-field naturally  
14 occurring radioactive materials (NORM) related storage, decontamination, treatment, or  
15 disposal. This definition excludes a facility that is permitted in accordance with COGCC  
16 Rule 903 pursuant to COGCC Rule 902.e.

17           *Commercial Disposal Well Facility* means a facility whose primary objective is  
18 disposal of Class II waste from a third party for financial profit.

19           *COGCC* means the Colorado Oil and Gas Conservation Commission.

20           *Completion* - An oil well shall be considered completed when the first new oil is  
21 produced through well head equipment into lease tanks from the ultimate producing  
22 interval after the production string has been run. A gas well shall be considered  
23 completed when the well is capable of producing gas through wellhead equipment from  
24 the ultimate producing zone after the production string has been run. A dry hole shall be  
25 considered completed when all provisions of plugging are complied with as set out in  
26 these rules. Any well not previously defined as an oil or gas well, shall be considered  
27 completed ninety (90) days after reaching total depth. If approved by the COGCC, a well  
28 that requires extensive testing shall be considered completed when the drilling rig is  
29 released or six months after reaching total depth, whichever is later.

30           *Dedicated Injection Well* means any well as defined under 40 C.F.R. §144.5 B,  
31 1992 Edition, (adopted by the U.S. Environmental Protection Agency) used for the

1           exclusive purpose of injecting fluids or gas from the surface. The definition of a  
2           dedicated injection well does not include gas storage wells.

3           *Designated Agent* means the designated representative of any oil and gas well  
4           operator.

5           *Designated Outside Activity Areas* means as defined in COGCC rules.

6           *Exploration and Production Waste (E&P Waste)* means those wastes associated  
7           with operations to locate or remove oil or gas from the ground or to remove impurities  
8           from such substances and which are uniquely associated with and intrinsic to oil and gas  
9           exploration, development, or production operations that are exempt from regulation under  
10          Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 USC Sections  
11          6921, et seq. For natural gas, primary field operations include those production-related  
12          activities at or near the well head and at the gas plant (regardless of whether or not the  
13          gas plant is at or near the wellhead)but prior to transport of the natural gas from the gas  
14          plant to market. In addition, uniquely associated wastes derived from the production  
15          stream along the gas plant feeder pipelines are considered E&P wastes, even if a change  
16          of custody in the natural gas has occurred between the wellhead and the gas plant. In  
17          addition, wastes uniquely associated with the operations to recover natural gas from  
18          underground storage fields are considered to be E&P Wastes.

19           *Flowlines* mean those segments of pipe from the wellhead downstream through  
20          the production facilities ending at: in the case of gas lines, the gas metering equipment; or  
21          in the case of oil lines the oil loading point or Lease Automatic Custody Transfer (LACT)  
22          unit; or in the case of water lines, the water loading point, the point of discharge to a pit,  
23          the injection wellhead, or the permitted surface water discharge point.

24           *Gathering Line* means a pipeline and equipment described below that transports  
25          gas from a production facility (ordinarily commencing downstream of the final  
26          production separator at the inlet flange of the custody transfer meter) to a natural gas  
27          processing plant or transmission line or main. The term “gathering line” includes valves,  
28          metering equipment, communication equipment cathodic protection facilities, and pig  
29          launchers and receivers, but does not include dehydrators, treaters, tanks separators, or  
30          compressors located downstream of the final production facilities and upstream of the  
31          natural gas processing plants, transmission lines, or main lines.

1           *Green Completion Practices* mean those practices intended to reduce emissions of  
2 salable gas and condensate vapors during cleanout and flowback operations prior to the  
3 well being placed on production and thereafter as applicable.

4           *Groundwater* means subsurface waters in a zone of saturation.

5           *Inactive Well* means any shut-in well from which no production has been sold for  
6 a period of twelve (12) consecutive months; any well which has been temporarily  
7 abandoned for a period of (6) consecutive months; or, any injection well which has not  
8 been utilized for a period of twelve (12) consecutive months.

9           *Local Government Designee (LGD)* means the office designated to receive, on  
10 behalf of the local government, copies of all documents required to be filed with the local  
11 government designee pursuant to these rules.

12           *Mineral Estate Owner* means the owner or lessee of minerals located under a  
13 surface estate that are subject to an application for development.

14           *Multi-well Site* means a common well pad from which multiple wells may be  
15 drilled to various bottomhole locations.

16           *Oil* means crude petroleum oil and any other hydrocarbons, regardless of  
17 gravities, which are produced at the well in liquid form by ordinary production methods,  
18 and which are not the result of condensation of gas before or after it leaves the reservoir.

19           *Oil and Gas* means oil or gas or both oil and gas.

20           *Oil and Gas Well* means a hole drilled into the earth for the purpose of exploring  
21 for or extracting oil, gas, or other hydrocarbon substances.

22           *Oil and Gas Well Facility* means equipment or improvements used or installed at  
23 an oil and gas well location for the exploration, production, withdrawal, gathering,  
24 treatment, or processing of oil or natural gas.

25           *Oil and Gas Well Location* means a definable area where an operator has  
26 disturbed or intends to disturb the land surface in order to locate an oil and gas well  
27 facility.

28           *Oil and Gas Well Operations* means exploration for oil and gas, including the  
29 conduct of seismic operations and the drilling of test bores; the siting; drilling; deepening,  
30 recompletion, reworking, or abandonment of an oil and gas well, or gas storage well;  
31 production operations related to any such well including the installation of flowlines and

1 gathering systems; the generation, transportation, storage, treatment,; and any  
2 construction, site preparation, or reclamation activities associated with such operations.

3       *Operating Plan* means a general description of a facility identifying purpose, use,  
4 typical staffing pattern, equipment description and location, access routes, seasonal or  
5 periodic considerations, routine hours of operating, source of services and infrastructure,  
6 and any other information related to regular functioning of that facility.

7       *Operator* means any person who exercises the right to control the conduct of oil  
8 and gas operations.

9       *Owner* means any person with a working interest ownership in the oil and gas or  
10 leasehold interest therein.

11       *Pit* means a subsurface earthen excavation (lined or unlined), or open top tank,  
12 used for oil or gas exploration or production purposes for retaining or storing substances  
13 associated with the drilling or operation of oil and gas wells. Pits may include drilling  
14 pits, production pits, reserve pits and special purpose pits as defined in COGCC Rules

15       *Plugging and Abandonment* means the cementing of a well, the removal of its  
16 associated production facilities, the removal or abandonment in-place of its flowline, and  
17 the remediation and reclamation of the wellsite.

18       *Pollution* means man-made or man-induced contamination or other degradation of  
19 the physical, chemical, biological, or radiological integrity of air, water, soil, or  
20 biological resource.

21       *Production Facilities* mean all storage, separation, treating, dehydration, artificial  
22 lift, power supply, compression, pumping, metering, monitoring, flowline, and other  
23 equipment directly associated with oil or gas wells.

24       *Production Site* means that surface area immediately surrounding proposed or  
25 existing production equipment, or other accessory equipment necessary for oil and gas  
26 production activities, exclusive of transmission and gathering pipelines.

27       *Public Water System* means those systems designated by the COGCC. These  
28 systems provide to the public water for human consumption through pipes or other  
29 constructed conveyances, if such systems have at least fifteen (15) service connections or  
30 regularly serve an average of at least twenty-five (25) individuals daily at least sixty (60)  
31 days out of the year. Such definition includes:

- (i) Any collection, treatment, storage, and distribution facilities under control off the operator of such system and used primarily in connection with such system.

- (ii) Any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system.

The definition of “Public Water System” for purposes of Rule 317B does not include any “special irrigation district,” as defined in Colorado Primary Drinking Water Regulations (5 C.C.R. 1003.1).

*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.

*Remediation* means the process of reducing the concentration of a contaminant or contaminants in water or soil to the extent necessary to ensure compliance with the concentration levels in COGCC rules and other applicable ground water standards and classifications.

*Seismic Operations* means all activities associated with acquisition of seismic data including but not limited to surveying, shothole drilling, recording, shothole plugging and reclamation.

*Sensitive Area* means an area vulnerable to potential significant adverse groundwater impacts, due to factors such as the presence of shallow groundwater or pathways for communication with deeper groundwater; proximity to surface water, including lakes, rivers, perennial or intermittent streams, creeks, irrigation canals, and wetlands. Additionally, areas classified for domestic use by the Water Quality Control Commission, local (water supply) wellhead protection areas, areas within 1/8 mile of a domestic water well, areas within  $\frac{1}{4}$  mile of a public water well, ground water basins designated by the Colorado Ground Water Commission, and surface water supply areas are sensitive areas.

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

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

2           *Subsurface Disposal Facility* means a facility or system for disposing of water or  
3 other oil field wastes into a subsurface reservoir or reservoirs.

4           *Surface Water Supply Area* means the classified water supply segments within  
5 five (5) stream miles upstream of a surface water intake on a classified water supply  
6 segment. Surface Water Supply Areas shall be identified on the Public Water Supply  
7 Area Map or through use of the Public Water System Surface Water Supply Area  
8 Applicability Determination Tool described in COGCC Rule 317B.b.

9           *Tank* shall mean a stationary vessel that is used to contain fluids, constructed of  
10 non-earthen materials (e.g. concrete, steel, plastic) that provide structural support.

11          *Treatment facilities* means any plant, equipment or other works used for the  
12 purposes of treating, separating or stabilizing any substance produced from a well.

13          *Twinning* means the drilling of a well within a radius of fifty feet from an existing  
14 well bore when the well cannot be drilled to the objective depth or produced because of  
15 an engineering problem, such as a collapsed casing or formation damage.

16          *Water Bodies* mean reservoirs, lakes, perennial or seasonally flowing rivers,  
17 streams, creeks, springs, irrigation ditches, aquifers, and wetlands.

18          *Waters of the State* mean any and all surface and subsurface waters which are  
19 contained in or flow in or through this state, but does not include waters in sewage  
20 systems, waters in treatment works of disposal systems, water in potable water  
21 distribution systems, and all water withdrawn for use until use and treatment have been  
22 completed. Waters of the state include, but are not limited to, all streams, lakes, ponds,  
23 impounding reservoirs, wetlands, watercourses, waterways, wells, springs, irrigation  
24 ditches or canals, drainage systems, and all other bodies or accumulations of water,  
25 surface and underground, natural or artificial, public or private, situated wholly or partly  
26 within or bordering upon the State.

27          *Well* means an oil or gas well for purposes of exploration and production.

28          *Well Site* means the areas that are directly disturbed during the drilling and  
29 subsequent operation of, or affected by production facilities directly associated with, any  
30 oil or gas well or injection well and its associated well pad.

(b) All terms used in this section that are defined in the Act or in COGCC rules and are not otherwise defined in Chapter 15.10 of this development code shall be defined as provided in the Act.

(c) All other words used in this section shall be given their usual customary and accepted meaning, and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in the oil and gas industry.

### Section 3

The Council amends §§15.04.010only of the Longmont Municipal Code, by adding italicized material and deleting stricken material to read as shown on the attached Exhibit 1.

## Section 4

The Council amends § 15.05.010 of the Longmont Municipal Code, by adding italicized material and deleting stricken material only, to read as follows:

**B. Residential zoning districts – Density and dimensional standards.**

## 2. Special standards.

2. Special standards.

...

h. Setbacks/location from existing and abandoned oil and gas wells and facilities. Please see section 15.04.020(B)(32)(w)(ii) and (iii) regarding setbacks/location of structures from existing and abandoned oil and gas wells and facilities

C. Commercial, industrial, mixed use and public zoning districts – Density, intensity, and dimensional standards. Table 15.05-B

## 2. Special standards.

1                   f.         Setbacks/location from existing and abandoned oil and gas wells  
2                   and facilities. Please see section 15.04.020(B)(32)(w)(ii) and (iii) regarding  
3                   setbacks/location of structures from existing and abandoned oil and gas wells and  
4                   facilities.

5                   ...

6

7                   Section 5

8                   The Council amends § 15.07.050 of the Longmont Municipal Code, by adding italicized  
9                   material and deleting stricken material only, to read as follows:

10                  ...

11                  15.07.50. Subdivision design and improvements.

12                  ...

13                  P.         Setbacks/location from existing and abandoned wells and facilities. Please see  
14                  section 15.04.020(B)(32)(w)(ii) and (iii) regarding setbacks/location of platted residential  
15                  lots, parks, sports fields and playgrounds, public roads, and major above ground utility lines from  
16                  existing and abandoned oil and gas wells and facilities.

17                  ...

18                  Section 6

19                  The Council amends § 15.10.020 of the Longmont Municipal Code only of the Longmont  
20                  Municipal Code, by adding italicized material and deleting stricken material, to read as follows:

21

22                  15.10.020      Definitions of words, terms and phrases.

23

24                  ...

25                  Heavy industrial means manufacturing or other enterprises with significant  
26                  external effects, or which pose significant risks due to involvement with  
27                  explosives, radioactive materials, poisons, pesticides, herbicides, or other  
28                  hazardous materials in the manufacturing or other process. Oil and gas waste  
29                  disposal facilities, including injection wells for disposal of oil and gas exploration  
30                  and production wastes, commercial disposal facilities, centralized E&P waste  
31                  management facilities, and subsurface disposal facilities, are classified as heavy  
32                  industrial uses.

1                                 ...

2                                 ...

3

4   Section 7

5       The Council amends Appendix B of Title 15 of the Longmont Municipal Code, by  
6 adding italicized material and deleting stricken material to read as shown on the attached Exhibit  
7 2.

8

9   Section 8

10      To the extent only that they conflict with this ordinance, the Council repeals any  
11 conflicting ordinances or parts of ordinances. The provisions of this ordinance are severable, and  
12 invalidity of any part shall not affect the validity or effectiveness of the rest of this ordinance.

13

14

15     Introduced this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

16

17     Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

---

22                                 MAYOR

23

24     ATTEST:

25

26

27

---

28     CITY CLERK

29

30

31     NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT  
32 7:00 P.M. ON THE 22ND DAY OF MAY, 2012, IN THE LONGMONT COUNCIL  
33 CHAMBERS.

34

35

36     APPROVED AS TO FORM:

37

---

38

39     CITY ATTORNEY

---

40                                 DATE

1  
2 \_\_\_\_\_  
3 PROOF READ \_\_\_\_\_  
4  
5  
6 APPROVED AS TO FORM AND SUBSTANCE:  
7  
8  
9  
10 \_\_\_\_\_  
11 ORIGINATING DEPARTMENT \_\_\_\_\_ DATE

1  
EXHIBIT 12  
15.04.010 Principal uses by zoning district3  
...4  
J. Table 15.04-A: Table of Principal Uses by Zoning District.

TABLE 15.04-A: TABLE OF PRINCIPAL USES

P = Permitted Use C = Conditional Use L = Limited Use Blank Cell = Prohibited Use

USE CLASSIFICATION & SPECIFIC PRINCIPAL USES	ZONING DISTRICT																			Additional Regulations (Apply in All Districts Unless Otherwise Stated)
	E1	E2	R1	R2	R3	MH	RLE	RMD	MD-O	C	CR	CBD	BLI	MI	GI	P	A	MU	RP	
...																				
G. Manufacturing and Processing Uses																				
Industrial users where products are researched, designed, assembled, manufactured, or produced.																				
**Operation of all principal uses shall be conducted primarily inside an enclosed structure unless otherwise specified in this Use Table 15.04-A**																				
Light industrial uses																				24;
Indoor use only except for storage meeting accessory use standards.																				Operational impacts associated with noise, odors, light, vibration, etc. are confined to the lot on which the use is located or are adequately mitigated. MU and overlay: allowed only in commercial core area

TABLE 15.04-A: TABLE OF PRINCIPAL USES

P = Permitted Use C = Conditional Use L = Limited Use Blank Cell = Prohibited Use

USE CLASSIFICATION & SPECIFIC PRINCIPAL USES	ZONING DISTRICT															Additional Regulations (Apply in All Districts Unless Otherwise Stated)			
	E1	E2	R1	R2	R3	MH	RLE	RMD	MD-O	C	CR	CBD	BLI	MI	GI	P	A	MU	RP
Medium industrial uses Majority of use occurs indoor													L/C	L	P			P	24; Operational impacts associated with noise, odors, light, vibration, etc. are confined to the zoning district in which the use is located or are adequately mitigated. BLI: Limited use review for indoor use only except for storage meeting accessory use standards. Conditional use review for uses with additional outdoor activities. Not allowed in MU district overlay
Heavy industrial uses Use may occur indoor or outdoor														C			C		24; Operational impacts associated with noise, odors, light, vibration, etc. are confined to the zoning district in which the use is located or are adequately mitigated. Not allowed in MU district overlay

TABLE 15.04-A: TABLE OF PRINCIPAL USES

P = Permitted Use C = Conditional Use L = Limited Use Blank Cell = Prohibited Use

USE CLASSIFICATION & SPECIFIC PRINCIPAL USES	ZONING DISTRICT															Additional Regulations (Apply in All Districts Unless Otherwise Stated)			
	E1	E2	R1	R2	R3	MH	RLE	RMD	MD-O	C	CR	CBD	BLI	MI	GI	P	A	MU	RP
Oil and gas well operations and facilities								L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	32; Refer to section 15.04.020.B.32.c.iv regarding use restrictions; Refer to section 15.04.020.B.32.g regarding review process; Not allowed in MU district overlay
...																			

1 EXHIBIT 2

2 APPENDIX B. SUBMITTAL REQUIREMENTS FOR DEVELOPMENT APPLICATIONS

3 . . .

4 2. Submittal requirements for applications for major developments.

5 a. Table 2: Information to be submitted as application package to planning and development services division  
6 (number of copies shall be specified in the pre-application conference).

7 b. Oil and Gas Well Operations and Facilities: Additional Submittal Requirements.In addition to the conditional  
8 use application requirements in Tables 2, 3 and 4 below, proposed oil and gas well operations and facilities  
9 subject to the use regulations in §15.04.020.B.32, “Oil and Gas Well Operations and Facilities,” shall include  
10 the additional submittal requirements stated in Table 8 of this Appendix, below.

11 . . .

12 3. Submittal requirements for applications for minor developments.

13 a. Table 5: Application Requirements for Minor Developments.

14 b. Oil and Gas Well Operations and Facilities: Additional Submittal Requirements.In addition to the limited use  
15 application requirements in Tables 5, 6 and 7 below, proposed oil and gas well operations and facilities subject  
16 to the use regulations in §15.04.020.B.32, “Oil and Gas Well Operations and Facilities,” shall include the  
17 additional submittal requirements stated in Table 8 of this Appendix, below.

18 . . .

19 4. Additional Submittal Requirements for Oil and Gas Well Operations and Facilities. In addition to the conditional use  
20 application requirements in Tables 2, 3 and 4 above or the limited use application requirements in Tables 5, 6 and

1           7above, proposed oil and gas well operations and facilities subject to the use regulations in §15.04.020.B.32, “Oil and  
2           Gas Well Operations and Facilities,” shall include the submittal requirements stated in Table 8 below.

3

4           TABLE 8

5           ADDITIONAL SUBMITTAL REQUIREMENTS FOR REVIEW OF OIL AND GAS WELL OPERATIONS AND  
6           FACILITIES

7

8           General Submission Requirements:

- 9           1. The applicant and operator's name, address, phone and fax numbers, and email addresses.  
10          2. A listing of all permits or approvals obtained or yet to be obtained from state or federal agencies.  
11          3. A written description of compliance with the requirements and standards in §15.04.020.B.32.  
12          4. The following items consistent with the requirements and standards in §15.04.020.B.32:  
13              a. *Emergency response plan;*  
14              b. *Cultural resource plan, as applicable;*  
15              c. *Operation plan;*  
16              d. *Visual mitigation analysis, as applicable;*  
17              e. *Noise mitigation, as applicable;*  
18              f. *Lighting plan;*  
19              g. *Water quality monitoring plan, as applicable;*  
20              h. *Site vegetation analysis;*  
21              i. *Habitat protection plan, as applicable*  
22              j. *Transportation impact study, traffic control plan, and access plan.*

- 1       5. Graphic representations, including photographs of the types of equipment to be used during drilling, completion,
- 2              maintenance, or abandonment operations, as applicable.
- 3       6. Any other reasonable or pertinent information deemed necessary by the City for the application review or
- 4              compliance with the requirements and standards in §15.04.020.B.32.

5  
6       Vicinity Map Requirements:

7       The Applicant shall include a scaled vicinity map with aerial imagery that shows the following:

- 8       1. The location of all existing bodies of water and watercourses within one mile or greater of the proposed well(s).
- 9       2. The location of existing and abandoned oil and gas wells as reflected in COGCC records within one mile or greater
- 10              of the proposed well(s).
- 11       3. The location of proposed wells, production facilities and access roads.

12  
13       Site Plan Requirements:

14       The Applicant shall submit a site plan that, in addition to the requirements for conditional use site plans or limited use

15              site plans, includes the following elements:

- 16       1. The location of the proposed well operations and facilities including well(s), proposed twinning locations, motors,
- 17              compressors, tank battery, separators and treaters, production equipment, transmission and gathering pipelines and
- 18              other ancillary facilities to be used during the drilling, maintenance and operation of the proposed well. The site
- 19              plan shall identify all proposed access and storage facilities associated with the well operations and facilities.
- 20       2. All existing physical features, including water bodies, drainageways, floodplains, roads and rights-of-way within
- 21              one half mile or greater of proposed well operations and facilities. The site plan shall also depict existing
- 22              subdivision boundaries, existing buildings or structures, property lines, public and private utility easements of

1 record and utility facilities and improvements within one half mile or greater of the proposed well operations or  
2 facilities.

3 3. Demonstration of compliance with applicable requirements and standards in §15.04.020.B.32for oil and gas well  
4 operations and facilities.

5 4. The Development Services Manager may waive one or more of the items listed as submission requirements if they  
6 are not applicable given the location of the well operations or facilities. (See §15.02.040.Q., “Submittal  
7 Requirements.”)

8

**11.D.**