

CHAPTER 9

Oil and Gas Exploration and Development

Article I

General

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ARTICLE I

General

Sec. 9-1. Purpose and scope.

(a) The purpose of these regulations, as herein set forth, is to promote sound environmental practices for the protection of the people and the property and the City's well water supply through the control of oil and gas surface operations and well site locations in the City.

(b) The provisions of this Chapter shall apply to the surface construction, alterations, repair, erection, maintenance and location of any gas or oil well, accessory equipment and related structures within the City.

(c) Where, in any specific case, the gas or oil well requirements of any other agency are in conflict with these regulations, the statutory applications shall apply.

(d) Nothing in these regulations shall be construed to cancel or impair the applicability of the other development-related codes of the City. (Ord. 97-701)

Sec. 9-2. Definitions and word usage.

(a) Word usage. Unless the context otherwise requires, the definitions hereinafter set forth shall govern the meaning and the interpretation of these regulations. Words used in the present tense include the future; words in the singular number include the plural; and words in plural number include the singular; the word "shall" is mandatory and not directory. Words not defined herein shall have the meanings commonly given to them in the petroleum industry.

(b) Definitions. As used in this Chapter, the following terms shall have the meanings indicated.

Approved means approved by the City Council. Approved type or approved design is and includes improvements, equipment, or facilities of a type of design approved by the City Council.

Barrel means forty-two (42) U.S. gallons of oil at sixty (60) degrees Fahrenheit atmospheric pressure.

Blowout means the uncontrolled discharge of gas, liquid or solids, or a mixture thereof, from a well into the atmosphere.

Blowout preventer means a mechanical, hydraulic or pneumatic or other device, or a combination of such devices, secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith designed to prevent and capable of preventing a blowout.

City means the City of Fort Lupton, Weld County, Colorado.

Completion of drilling means a well is completed, for the purposes of these regulations, when it has been made physically capable of production.

Council means the City Council.

Critical well means a well within:

- a. Two hundred fifty (250) feet of the following:
 1. Any building intended for human occupancy that is not necessary to the operation of the well;
 2. Any airport runway; or
 3. City water well.
- b. One hundred (100) feet of the following:
 1. Any dedicated public street, highway or nearest rail of an operating railway that is in general use;
 2. Any navigable body, of water or watercourse perennially covered by water;
 3. Any public recreational facility such as a golf course, amusement park, picnic ground, campground, or any other area of periodic high density population; or
 4. Any official recognized wildlife preserve.

Exceptions or additions to this definition may be established by the Oil and Gas Inspector upon said Inspector's own judgment or upon written request of an operator. This written request shall contain justification for such exception.

Deleterious substances means any chemical, salt water, oil field brine, waste oil, waste emulsified oil, basic sediment, mud or injurious substances produced or used in the drilling, development, producing, transportation, refining and processing of oil.

Derrick means any framework, tower, or mast, together with all parts of and appurtenances to such structure, including any foundation, pump house, or pipe rack, and each and every part thereof, which is or are required, used or useful for the drilling for and the production of oil, gas, or other hydrocarbons from the earth, except permanent tanks used for storage purposes.

Desertion means the cessation of operation at a drill site without compliance with the provisions of this Chapter relating to suspended operations or abandonment.

Directional drilling means the intentional changing of the direction of the well from the vertical.

Drill rig means that equipment used to drill an exploration hole or an oil and gas well capable of drilling greater than three hundred (300) feet.

Drill site means the premises used during the drilling and subsequent life of a well or wells, which is necessary for the safe operation thereof.

Drilling fluids means the fluid used in the hole during drilling or other operations.

Enhanced recovery operation means the introduction of fluid or energy into a common source of supply for the purpose of increasing the recovery of oil therefrom according to a plan which has been approved by the State Oil and Gas Commission.

Exploration means the search for natural accumulations of oil and gas.

Exploration hole means a hole, usually three (3) inches in diameter and several hundred feet deep, used for exploration.

Gas means the gaseous components of vapors occurring in or derived from petroleum or natural gas.

Gas valve means production equipment at the mouth (top) of a gas well.

Gas well means a well having a pressure and volume of gas, and taking into account its proximity to market, as can be utilized commercially.

Hydraulic pump means an oil well pump which uses hydroptic movement or hydraulic pressure to extract oil from beneath the surface

Maintenance means the repair and replacement of parts of a structure where same does not alter or lessen the strength or stability of the structure; also, operations conducted during the stability of the structure; also, operations conducted during the production stage involving any form of repair work.

Mouth of well means the surface opening of an oil or gas well.

Mover means the drilling contractor or trucking contractor actually transporting the drilling rig for the operator.

Oil means petroleum, and petroleum includes oil.

Oil and Gas Inspector means person(s) designated by the City Administrator to perform any or all duties of the "Oil and Gas Inspector" as defined herein.

Oil sump means an open depression or basin in the ground, whether man-made or natural, which contains oil or a combination of oil and water.

Oil well means a bored hole from which petroleum is obtained by pumping or by natural flow.

Operator means the person, whether proprietor, lessee or independent contractor, actually in charge and control of the drilling, maintenance, operation or pumping of a well or lease.

Owner of interest means a person, group, or firm who owns a legal or equitable interest in the subsurface mineral rights or leasehold.

Person means any individual, firm, association, corporation, joint venture or any other group or combination acting as a unit.

Plugging means the act of placing cement or other materials in the drilling bore to prevent migration of oil, gas, water or other material from the excavation level in which it originally occurred. Plugging is done for oil and gas wells and exploration holes.

Pollution means the contamination or other alteration of the physical, chemical or biological properties of any ground, air, water or visual aesthetics within the City including changes in temperature, taste, color, turbidity or odor of such resources on such discharge of any liquid gaseous, solid, radioactive or other substance into any or onto any such resources of the City as will or is likely to create a nuisance or render these resources harmful, detrimental or injurious to public health, safety, welfare, or to domestic, commercial, industrial, agricultural, recreational, or other beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Production means oil or gas well development stage when marketable oil and gas is being brought to the surface.

Rework means any operation subsequent to drilling that involves deepening, redrilling, plugging, or permanently altering in any manner the casing of a well or its function.

Redrilling means the deepening of an existing oil well or otherwise drilling beyond the extremities of the existing well casing. The provisions of this Chapter relating to drilling shall be equally applicable to redrilling.

Restoration of site means the reclamation or restoration of the drill site to its original conditions, or as nearly so as practicable, as required by these regulations.

Retaining pit means earthen excavation used for the purpose of retaining or storing substances associated with the drilling or operation of oil and gas wells.

Strata means a single sedimentary rock bed or layer.

String means a continuous length of connected sections of casing, liner, drill pipe, or tubing run into the well, including all attached equipment.

Structure means that which is built or constructed; a tank, edifice or building of any kind, except temporary structures used in the actual drilling, development or rework operations.

Submersible pump means an oil well pump located beneath the ground surface.

Suspended operations means the approved, temporary suspension of drilling or redrilling operations pending a resumption of operations or abandonment.

Tank means a container, covered or uncovered, used in conjunction with the drilling or production of an oil well, for holding or storing liquids at or near atmospheric pressure.

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

Well means a well or hole drilled into the earth for the purpose of exploring for or extracting from the earth oil, gas or other hydrocarbon substances, or a well or hole in the earth by means of

and through which oil, gas and other hydrocarbon substances are extracted, produced, or capable of being produced from the earth, or a well or hole for the purpose of secondary recovery or disposal thereof.

Working interest means an interest held in lands by virtue of fee title, including lands held in trust, a lease, operating agreement, or otherwise, under which the owner of such interest has the right to drill for, develop and produce oil and gas. A working interest shall be deemed vested in the owner thereof even though his or her right to drill or produce may be delegated to an operator under a drilling and operating agreement unit agreement or other type of operating agreement.

Working interest owner means a person owning a working interest. (Ord. 97-701)

Sec. 9-3. Permits required.

(a) Well permits. It shall be unlawful for any person, partnership, association or corporation to drill any exploration hole, oil or gas well, accessory equipment or structure within the corporate limits of the City unless a permit has been previously obtained. A separate permit shall be required for each well. Any such permit shall encompass within its authorization the right for the operator, his or her agent, employee(s) subcontractor or independent contractor or any other persons to perform that work necessary in the drilling, completion or maintenance operations.

(b) Permits (Tanks, heaters, separators, and accessories). For the purpose of this regulation, the installation of tanks, heaters, separators and other accessory equipment shall be construed as extensions to oil and gas wells and shall accordingly be subject to the same applications, review, permit, regulations and standards. The application for these accessories when intended to be installed at the same time as the oil or gas well may be merged with an application for an oil or gas well permit.

(c) Building permits. Building permits shall be obtained as required under this Code.

Sec. 9-4. Application procedure.

(a) Persons or firms desiring to drill any gas or oil well with or without accessory equipment or structures shall file a written application with the City Administrative Services Director. Such application shall meet the standards herein set forth.

(b) Written applications. All applications must be in writing and shall contain all information required by this Chapter. Applications are to be filed with the City Administrative Services Director for processing.

(c) Forms and other documentation required. The following forms are required to be submitted to perfect the application.

(1) A completed "Application for Oil and Gas Permit." This application shall include a full description of the intended use, site improvements and characteristics of installation, operation, and maintenance. The technical requirements for maps and plans to be provided shall be as required by these regulations.

(2) A location map showing the site involved in the application in relationship to existing features, such as structures, fences, streams, public or private rights-of-way and streets, street intersections, zoning districts, and other significant topographical or structural features within two hundred fifty (250) feet of the site.

(3) Three (3) copies of Site Plan of the property involved in the application, as specified by Section 9-6 of this Code.

(4) A Master Plan of the property involved in the application as specified by Section 9-5 of this Code. The number of copies to be submitted shall be as specified by the City Administrative Services Director.

(5) A statement of proposed methods of waste disposal to be used.

(6) Evidence of leasehold, resource ownership, or owner's authorization.

(7) The name and address of each owner of a working interest in the well which is to be drilled, operated, maintained or abandoned, as shown on the lease or any other agreement pertaining to ownership or allocation of proceeds from the well.

(8) The name and address of each person or firm in charge of the operation and maintenance of such well.

(9) The name and address of the person or firm in charge of the work to be done under such permit.

(10) A list of all the names and addresses of the owners of all real estate situated within five hundred (500) feet of the proposed well, accessory, equipment, structure site, certified to be accurate by an attorney at law authorized to practice law in the State.

(11) One (1) set of 9½" x 4¼" envelopes addressed to each of the owners of property identified in Paragraph (11) above.

(12) Copies of any agreements or contracts with the surface owner.

(13) Evidence of satisfaction of the bond requirement set forth in Section 9-7 of this Code.

(14) Evidence of satisfaction of the insurance requirement set forth in Section 9-8 of this Code.

(15) General specifications and graphic representation (preferably representative photographs or pictorial drawings) of the type of equipment to be used during drilling, completions, maintenance or rework operations as applicable. Specific attention shall be given to the intended measures of noise mitigation and the ensuring of public safety.

(16) A statement indicating the type of motor, pumps and related equipment to be used for drilling and production. Specific attention shall be given to the intended measures of noise mitigation and the ensuring of public safety.

(17) Certification that the owners of the leasehold interest and the persons in charge of the drilling, operation or maintenance of such well are familiar with the ordinances of the City and will abide by the provisions thereof.

(18) Copies of applicable permits from the Colorado Oil and Gas Commission and other applicable State and Federal agencies.

(19) Any other information determined to be necessary by the Council that will aid the Council in making a decision which will not impair the intent and purpose of this Code.

(d) City procedures.

(1) The Administrative Services Director shall determine that the application is complete and in proper form. The Administrative Service Director shall then schedule a hearing in accordance with Subsection (e) of this Section.

(2) City employees or consultants employed by the City shall review the application and shall prepare comments for use by the City Council, addressing all aspects of the application, its conformance with sound land use planning practices, its conformance with the City Land Use and Master Plans and this Chapter.

(e) Hearing. Public hearings shall be conducted on all applications by the Council in accordance with the following procedures.

(1) Setting date. The date of a hearing before the Council shall be set by the Administrative Services Director not less than fifteen (15) working days nor more than thirty (30) working days from the receipt of the written application, the payment of all required fees and the filing of all required attachments.

(2) Notice of hearing. Notice of the hearing before the Council shall be given to all interested parties in the following manner.

a. Publication. Notice of the date and time of the hearing, the property affected (by legal description and address), the permit requested and the name of the petitioner shall be published in an official newspaper (as designated by City Council resolution) no later than fifteen (15) calendar days prior to the date of the hearing.

b. Mailing notice. Notice of the date and time of the hearing, the property affected (by legal description and address), the permit requested and the name of the petitioner shall be mailed by certified mail, return receipt requested, to each owner of surface rights of property located within five hundred (500) feet of the property in question, including the petitioner. The City's source of the ownership list shall be the list prepared by the applicant.

c. Posting. Notice of the date and time of hearing, the property affected (by legal description and address), the relief requested, and the name of the applicant shall be posted on the property to be affected no later than ten (10) calendar days before the hearing. The posting shall be done by the City. The sign shall be placed on a street frontage where possible. The sign shall be legible from a distance of thirty (30) feet and shall be weather protected.

(f) Conduct of the hearing. The hearing shall be conducted as a part of a scheduled meeting of the Council in accordance with the following:

(1) Time and date of the hearing. The hearing shall be conducted at the time and place designated in the public notice.

(2) Absence of quorum. In the absence of a quorum, the hearing shall be called to order and the hearing rescheduled to a date certain. No additional notice shall be required, nor shall any additional fees be charged to the applicant for a rehearing caused by the lack of a quorum.

(3) Continuance of a hearing. No continuance of the hearing upon request of the applicant shall be granted except for good cause. Notice of the rescheduled hearing shall be mailed to all parties in interest. All direct costs incurred by the City for rescheduling the hearing shall be paid by the applicant.

(4) Withdrawal of an application. The applicant may withdraw his or her application any time prior to the rendering of a decision of the Council.

(5) Acceptance of testimony at the hearing. The Council shall accept sworn testimony and written documents from all parties that are pertinent to the subject of the hearing. The Council shall have sole responsibility for determining the admissibility of written or sworn testimony.

(6) Acceptance of public comments. The Council may permit general comments concerning opinions to be made by the public in attendance at the hearing. These comments shall not be considered by the Council with the same weight as sworn testimony.

(7) Applicant representation. The applicant may be represented by legal counsel or other appropriate persons.

(8) Burden of proof. The burden of proof shall be on the applicant to demonstrate that the application should be granted, taking into account the factors specified in Subsection (h) of this Section.

(9) Council legal counsel. The Council may request legal counsel from the City's attorney or other special counsel of their choosing.

(10) Close of the public hearing. Upon the completion of the presentation of sworn testimony, the receipt of documentary evidence and comments from the public, the Council shall close the hearing and adjourn to their business meeting for discussion and formulating the decision.

(11) Verbatim record of hearing. A record of the entire hearing shall be made by an electronic recording device. A verbatim transcript of the hearing will be made upon request, with the requesting party paying the entire cost of producing the transcript.

(12) Summary of minutes of the hearing. Summary of minutes of the hearing shall be prepared by the City Clerk. These minutes shall contain a summary of the pertinent testimony offered and the findings of fact and order of the Council.

(g) Public deliberations, findings of fact and determination. Immediately following the close of the hearing and adjournment to the business meeting, the Council shall discuss the merits of the application in open meeting and cause to be prepared a written findings of fact and orders on the matter heard. In matters of complexity, the Council may continue the meeting until a date not more than seven (7) calendar days after the hearing date, to prepare written findings of fact and orders. On the date set, the Council shall consider and approve their findings of fact and orders. The written findings of fact and orders shall be served upon the applicant by personal service or by certified mail, return receipt requested.

(h) Council action on the application. The Council shall approve the application, or approve the application with conditions, or deny the application, based on the following:

(1) Approval. The Council shall approve the application if it finds that the application is proper in all material respects and that the proposed well will conform to the requirements of this Chapter and will not constitute an unreasonable hazard to the public health, welfare or safety, or the City's well water supply.

(2) Approval with conditions. The Council may approve the application with conditions to be imposed which will more fully secure the purposes of this Chapter. Acceptance of a permit issued with conditions constitutes a binding commitment by the applicant to observe and perform the conditions specified.

(3) Denial for cause. The Council shall deny the application if the applicant has failed in some material respect to comply with the application procedures specified in this Chapter, or if the proposed well as described in the application would not conform to the provisions of this Chapter in some material respect; or if by reason of the location of the proposed well and the character and uses of the surrounding property, the proposed well would constitute an unreasonable hazard to the public health, welfare or safety, or the City's well water supply.

(i) Orders of the City Council. Any order of the Council shall be in full force and effect upon issuance and shall be binding upon all parties subject to it unless and until it may be found to be contrary to law or its enforcement enjoined by a court of competent jurisdiction.

(j) Termination of a permit. When a permit is issued, the same shall terminate and become inoperative without any action on the part of the City unless within ninety (90) calendar days from the date of issue, actual drilling of the well has commenced. The cessation of drilling operations for a like period after commencement of drilling shall operate to terminate and cancel the permit, and it shall be unlawful thereafter to continue the operation of such a well without the issuance of another permit. (Ord. 97-701; Ord 2006-881)

Sec. 9-5. Master Plan required.

(a) Every applicant shall submit a Master Plan for the leasehold/mineral interest which designates all reasonably potential well, accessory, equipment, structure sites and all land area "reasonably necessary" to the exploration and operation of the leasehold/mineral interest at the time of filing an application. Said Master Plan shall:

(1) Be of sufficient scale to convey clearly the required information.

(2) Represent all existing physical features, including topography, major vegetation, drainage ways, roads, well accessory equipment, water wells and structures. The Master Plan shall also depict all existing subdivisions, whether developed or not. This information shall encompass all of the leasehold/mineral interest, plus an additional five hundred (500) feet beyond the confines of the leasehold/mineral interest.

(3) Identify all intended, or potential, well/accessory equipment/structure sites within the leasehold/mineral interest.

(4) Identify all lands within the confines of the leasehold/mineral interest which would be "reasonably necessary" to the exploration and operation of the leasehold/mineral interest.

The number of copies to be submitted shall be as specified by the Administrative Services Director.

(b) Where all or part of a proposed subdivision is to involve land or properties subject to oil and gas leaseholds/mineral interests, and no Master Plan as above-specified exists, the subdivider shall provide reasonable opportunity for the preparation of such Master Plan. This opportunity shall be provided as follows:

(1) The subdivider shall identify any and all leaseholds/mineral interests of record for the subject property.

(2) The subdivider shall, through a certified mailing, tender notice to the owners of the leasehold/mineral interests of record of the intent to subdivide. The notice shall incorporate the language of this Section. A copy of the notice and certification/receipt shall be provided to the Administrative Services Director.

(3) The owners of the leasehold/mineral interests shall have sixty (60) calendar days from the above-referenced notice in which to prepare a Master Plan as above specified, with copies to the subdivider and to the Administrative Services Director.

(4) Should owners of the leasehold/mineral interests fail to provide the prescribed Master Plan within the established sixty (60) calendar day period, the City and the subdivider shall have the right and duty to make such plans and land reservations as may be necessary to protect the rights of the owner of interest under the standards of this Code.

(c) Notice of the existence and approval of such Master Plan shall be recorded with the County Clerk and Recorder.

(d) The Master Plan may be amended from time to time under the procedures and requirements specified above. (Ord. 97-701)

Sec. 9-6. Site plan standards.

Site Plans submitted in accordance with Section 9-4 shall conform to the following standards:

(1) Dimensions of the proposed well location lot and property lines, with complete legal description of the proposed well site and with reference thereon to the surface owner of all such property within five hundred (500) feet thereof.

(2) Location of the well, drilling rig, motors, tanks, separators and other principal equipment to be used in the drilling, maintenance and operation and other work of such well, with reference being made to property lines and structure (nature of structures being noted) located within one hundred and fifty (150) feet of such well site.

(3) Two-foot topographical contour intervals.

(4) Location of proposed access road.

(5) Description and location of fencing, berming, landscaping and screening.

(6) Location of piping network on site and off site.

(7) Location of nearest non-related structure, schools, hospitals and public facilities and all adjacent land uses.

(8) Location of all public utilities including but not limited to water wells, water lines, wastewater lines, telephone lines, gas lines, electrical lines and cable television lines.

The number of copies to be submitted shall be as specified by the Administrative Services Director. (Ord. 97-701)

Sec. 9-7. Bond requirements.

(a) Every applicant at the time of filing an application shall submit a bond in favor of the City in the amount set by Resolution of the City Council. Said bond shall be executed by the applicant and a corporate surety authorized to do business in the State and conditioned that the applicant shall pay all fees and sums due the City hereunder and comply and abide by the ordinances of the City and laws of the State. Should the applicant fail to perform all of his or her contractual obligations, the bond may be called by the City to pay all costs and expenses incident to such determination of default by test or otherwise, and to pay the expenses and costs of correcting such conditions created by such default, and all damages resulting therefrom.

(b) Multiple permits and installations may be secured under a blanket bond in favor of the City in the amount set by resolution of the City Council. Said blanket bond shall meet all other provisions specified above.

(c) In case any bond required herein shall lapse or become void for any reason whatsoever, the permit issued under the terms of this Code shall immediately become inoperative and void until a new bond is provided and filed with the City Clerk or the existing bond reinstated in full force. The wells covered by the bond shall be shut down and all operations and production thereof shall be suspended and discontinued until the filing of such new bond or reinstatement of such existing bond. (Ord. 97-701)

Sec. 9-8. Insurance requirements.

Each applicant shall submit with its written application a copy of a policy of insurance in the amount set by resolution of the City Council, insuring the applicant and the City against all claims or causes of action made against either or both applicant and the City for damages to persons or property

arising out of the drilling, maintenance, production and other work done with respect to such proposed oil or gas well. (Ord. 97-701)

Sec. 9-9. Fees.

(a) Application and operation fees. Every applicant shall pay a nonrefundable application fee set by resolution of the City Council to cover administrative costs to the City upon submission of his or her application for a permit. Upon receipt of a permit and each year thereafter, the operator shall pay an annual operation fee set by resolution of the City Council payable within thirty (30) days after each anniversary date of such permit.

(b) Building permit fees. A building permit fee shall be charged for the erection, construction or relocation of any permanent building, tank or other structures herein included, and such fee shall be as required under the Building Code of the City.

(c) Paving cuts. When it shall become necessary in the installation or removal of any pipeline, temporary line, flow line or conduit of any kind, to make cuts in any paved streets, alleys, highways, parking and sidewalk areas or any other property owned privately or by the City, the operator shall be required to restore said areas in accordance with the City's standards at his or her expense. In addition, the operator shall pay inspection fees for opening the pavement in the amount set by resolution of the City Council. Paving cut inspection fees shall be paid in advance of the cuts being made. (Ord. 97-701)

Sec. 9-10. Drilling and operation requirements.

The following restrictions and requirements shall apply to all wells drilled within the City.

(1) General restrictions.

a. In the interest of protecting the public safety, health and general welfare, the City may, at the time the permit is issued for any specific well, impose specific restrictions for that well including but not limited to the following:

1. Closed screening of drilling rigs and all on-site structures, equipment and tanks.
2. Regulation of well servicing time.
3. Regulation of specific allowable motors.
4. Regulation of specific allowable pumping devices.
5. Regulation of specific allowable treatment and storage facilities.
6. Method and time of transporting waste materials produced.

b. When an oil or gas well is within one-half (½) mile from urban or suburban development (to be determined by the City), the City may require drilling and pumping operations to have adequate soundproofing and operating hour restrictions.

c. Drilling and pumping units and pressure releases associated with oil or gas installations shall not at any time exceed eighty (80) dB(A) measured twenty-five (25) feet from the source.

d. All drilling and operation at any well shall be conducted in accordance with the best practices of the industry.

e. All casing, valves, blowout preventers, drilling fluid, tubing, bradenhead, Christmas tree and well head connections shall be of a type and quality consistent with the best practices of the industry.

f. If poisonous gas is encountered in any strata, drilling operations shall be immediately ceased and the poisonous gas adequately contained. The operator shall provide a plan to the Council for continuation of the drilling operation, completion and production with adequate safety measures to protect the residents of the City. Said plan must be approved by the Council before the operator may resume drilling operations. All future operations on the drill site must be in conformance with the approved plan.

g. The operational procedures and the properties, use and testing of drilling fluid, shall be such as are necessary to prevent the uncontrolled flow of fluids from any well. Drilling fluid additives in sufficient quantity to insure well control shall be kept readily available for immediate use at all times.

1. Before removal of the drill pipe or tubing from the hole is begun, the drilling fluid shall be conditioned to provide adequate pressure overbalance to control any potential source of fluid entry. Proper overbalance shall be confirmed by checking the annulus to insure that there is no fluid flow or loss when there is not fluid movement in the drill pipe or tubing. The drilling fluid weight and volume of any heavy slug or pill, and the fact that the annulus was checked for fluid movement shall be noted on the driller's log. During removal of the drill pipe or tubing from the hole, a hole-filling program shall be followed to maintain a satisfactory pressure overbalance condition.

2. Tests of the drilling fluid to determine viscosity, water loss, weight and gel strength shall be performed at least once daily while circulating, and the results of such tests shall be recorded on the driller's log. Equipment for measuring viscosity and fluid weight shall be maintained at the drill site.

h. The premises shall be kept in a clean and sanitary condition, free from rubbish of every character, to the satisfaction of the Oil and Gas Inspector, at all times drilling operations or reworking operations are being conducted, and as long thereafter as oil or gas is being produced.

(2) Exploration.

a. Exploration holes for oil and gas resources shall be drilled and plugged in accordance with all applicable State, Federal, and local regulations.

b. Access roads to exploration holes must be maintained to minimize fugitive dust conditions.

c. No open pit storage is permitted for exploration drilling. All fluids and muds brought to the surface must be contained in enclosed steel tanks.

d. Exploration drilling sites must be restored to their original condition, including revegetation of the drilling site and any road built to reach the site.

e. In the interest of protecting the public health, safety and general welfare and future development, the City may restrict hours of drilling, require site visual screening, and require buffering or special treatment as needed.

f. Any exploration hole that is later developed for the production of oil or gas shall conform to all regulations in this Chapter concerning oil and gas wells.

(3) Location and density of oil and gas wells and accessory equipment. Oil and gas wells and accessory equipment shall be subject to the following setback requirements. The same setbacks shall apply to new development around existing oil and gas wells and accessory equipment and structures.

a. All oil and gas wells shall be subject to the following setback requirements:

<i>Setback</i>	<i>Distance in Feet</i>
Well head to public right-of-way	100
Well head to residential, commercial or industrial property line	150
Well head to structure of public assembly (including church, school or public building)	300
Well head to City water well	500

b. All accessory equipment and structures (including tanks, heaters, separators, etc.) shall be subject to the following setback requirements:

<i>Setback</i>	<i>Distance in Feet</i>
Top of perimeter berm to public right-of-way	100
Top of perimeter berm to residential, commercial or industrial property line	150
Top of perimeter berm to structure of public assembly (including church, school or public building)	300

c. As provided by State regulations or statute, in no event shall the density of oil wells exceed one (1) per forty (40) acres, nor shall the density of gas wells exceed one (1) per one hundred sixty (160) acres. Supplemental wells (i.e., 5th spot or injection well) shall be permitted as demonstrated to be necessary provided that they either substitute for or share the site with the above specified oil or gas wells. In aggregate, there shall be no more than five (5) well sites (excluding domestic or agricultural water wells) per one hundred sixty (160) acres.

d. Tanks, heaters, separators and accessory equipment shall be limited to one (1) clustered installation ("Battery") per leasehold up to three hundred twenty (320) acres in size. Where mineral right leaseholds/ownerships are less than one hundred sixty (160) acres in size, such accessories and their location shall be coordinated from one (1) leasehold to the next in such fashion that the apparent number of installations is minimized. Shared or joined site utilization is encouraged.

e. No oil and gas well site is permitted at those locations which the City determines would be hazardous to the public health, safety and general welfare.

(4) Private roads and drill sites. Prior to commencing any drilling operations, all private roads used for access to the drill site and the drill site itself shall be graded for adequate drainage and shall be surfaced and maintained to prevent dust and mud and to provide sufficient access for fire protection.

(5) Operation sumps (pits). Steel operations sumps (pits) shall be used in connection with all drilling and reworking operations. Such sumps (pits) and contents shall be removed from the premises and the drilling site within sixty (60) days after completion of the well and disposed of in accordance with these regulations.

(6) Oil sumps or retaining pits. Only enclosed steel holding tanks may be used for the storage of oil field waste. Under no circumstances shall earthen oil sumps or retaining pits be permitted. Oil field waste shall be transported to and disposed of at a State approved disposal site or purified to standards acceptable to the City.

(7) Beam type pumping apparatus prohibited. Beam type pumping apparatus shall not be permitted at new well installations within the City. Where wells existing prior to the effective date of this Chapter or prior to annexation of the property upon which they are located (hereinafter called pre-existing wells) have such apparatus, they shall be deemed to be nonconforming and subject to compliance at the time of redrilling or rework.

(8) Electric motors for pumping operation. Only electric power motors shall be used for pumping units. Where wells existing prior to the effective date of this Chapter or prior to annexation of the property upon which they are located (hereinafter call pre-existing wells) fail to meet this requirement they shall be deemed to be nonconforming and subject to compliance within a six-month period from the effective date of this Chapter or of the ordinance annexing such property, as the case may be.

(9) Low profile tanks and separators required. All tank and separator installations within the corporate limits of the City shall be of low profile design or low profile installations. Storage tanks shall be so constructed and maintained as to be vapor tight. Steel conventional separators and such other steel tanks and appurtenances as are necessary for treating oil are to be so constructed and maintained as to be vaportight. Each oil and gas separator shall be equipped with both a regulations pressure-relief safety valve and a bursting head. Where tank and separator installations existing prior to the effective date of this Chapter or prior to the annexation of the property upon which they are located (hereinafter called pre-existing tank and separator installations) fail to meet this requirement they shall be deemed to be nonconforming and subject

to compliance within a six-month period from the effective date of this Chapter or of the ordinance annexing such property, as the case may be.

(10) Berms or vaults required.

a. All oil or gas wells and pumping apparatus shall be contained within a four-foot vault, four-foot berm or other comparable containment.

b. All accessory equipment such as tanks, heaters and separators shall be contained within a full-height (exclusive of lesser protrusions such as vents and pipes) berm. Such berm may be designed (access passages, gates, etc.) in such a manner that the confined equipment may be properly accessed and serviced. In all cases, the berm shall be so designed as to impound an amount of fluid equal to one hundred fifty percent (150%) of the capacity of the tanks therein. Tank control valves and the discharge end of tank transfer pipes shall be located within the confines of the berm.

c. It shall hereafter be unlawful to operate a well for oil or gas production without a four-inch header being laid over the top of the berm and a two-and-one-half-inch line extending from the tank battery to a point two hundred (200) feet from said tank battery. The manner and method provided for connection at said point shall be determined, by the City of Fort Lupton Fire Protection District (hereinafter Fire District) so that fire suppression chemicals may be pumped through the line and header to extinguish the fires in the tank battery.

d. Where installations existing prior to the effective date of this Chapter or prior to annexation of the property upon which they are located fail to meet these requirements, they shall be deemed to be nonconforming and subject to compliance within six (6) months from the effective date of this Chapter or of the ordinance annexing such property, as the case may be.

(11) Pipelines. All pipelines, installed or used for the purpose of the transportation of hydrocarbons, shall comply with the requirements of the National Gas Safety Code. All pipelines used in connection with the drilling of wells shall be of lapweld or seamless pipe and shall comply with the requirements of the American Petroleum Institute for lapweld or Grade "A" seamless pipelines.

(12) Safety.

a. Adequate fire fighting apparatus and supplies, approved by the Fire District, shall be maintained on the drilling site at all times during drilling and production operations. All machinery, equipment and installations of all drilling sites shall conform with such requirements as may from time to time be issued by the Fire District.

b. Smoking shall not be permitted at any oil well or tank battery except as designated and in posted areas approved by the Fire District.

c. No person engaged in the drilling or operation of an oil or gas well shall permit to escape into the air, or to flare or to burn, gas from a torch or any similar means, except to complete an oil or gas well upon the original completion or upon the recompletion of work over jobs upon an oil or gas well, so long as the same does not constitute a fire hazard to the

property of others within the vicinity of the oil or gas well, and the operator has notified the City of his or her intention and the City has given its written approval. If at any time gas should escape into the air despite the operator's compliance with the foregoing requirements, it shall be burned or flared.

d. Appropriate blowout prevention as approved by the Oil and Gas Inspector shall be provided to prevent the blowout of oil or gas during any drilling, redrilling, plugging or abandonment operations. The blowout preventer shall be tested and certified as being in proper working condition at least once every twenty-four (24) hours. Test results shall be noted in the driller's log and shall be deemed sufficient evidence of testing. Should the blowout preventer fail to operate properly, the operator shall immediately cease operations until the blowout preventer is repaired, retested and found to be in proper working order. The Oil and Gas Inspector may require a demonstration of the working condition of the blowout preventer at any time he or she deems necessary.

e. All land within twenty-five (25) feet of any oil well, flammable or combustible liquid tank, or other appurtenance to any such well shall at all times be kept free and clear of dry weeds, grass, rubbish, or other combustible material. When, in the opinion of the Oil and Gas Inspector, the distance is not sufficient to provide reasonable fire safety, a greater distance may be required.

f. During drilling, redrilling and rework operations, a watchman shall be maintained on the premises at all times who shall be charged with the responsibility of protecting the general public from any hazard resulting from the conduct of such operations.

(13) Well safety devices. Certain critical wells as designated by the Oil and Gas Inspector, from which fluid is capable of flowing to the surface, shall have safety devices as designated by the Oil and Gas Inspector installed and maintained in operating condition. A description of such safety devices follows:

a. Surface safety devices.

1. Fail-close, well shut-in or shut-down devices. Wellhead assemblies shall be equipped with an automatic fail-close valve.

2. High-low pressure sensors in all flowlines, set to shut in or shut down the well in the event of the abnormal pressure in flowlines.

3. Check valves in all headers, to prevent backflow in the event of flowline failure. All flowlines and valves shall be capable of withstanding shut-in wellhead pressure unless protected by a relief valve with connections to bypass the header.

4. Fire detection devices, such as fusible plugs, at strategic points in pneumatic, hydraulic and other shut-in control lines in fire hazard areas.

5. Remote, manually operated, quick operating shut-in controls at strategic points.

b. Testing and inspection of safety devices.

1. All installed well safety devices required by this Subsection (13) shall be tested at least every six (6) months, as follows:

- a) Flow line pressure sensors shall be tested for the proper pressure settings.
- b) Automatic wellhead safety valves shall be tested for reliable operation and holding pressures.
- c) Subsurface safety devices shall be tested for reliable operation.
- d) Tubing plugs or packers shall be tested for holding pressure.

2. The Oil and Gas Inspector shall be notified before such tests are made, as these tests may be witnessed by the Inspector. Test failures not immediately repaired or corrected and not witnessed by the Oil and Gas Inspector shall be reported to the Inspector within twenty-four (24) hours.

3. The Oil and Gas Inspector may establish a special testing schedule for safety devices other than that specified in this Section, based upon equipment performance or special conditions.

4. The operator shall maintain records, available to the Oil and Gas Inspector during business hours, showing the present status and history of each well safety device installed, including dates, details and results of inspections, tests, repairs, reinstallations and replacements.

(14) Fencing.

a. All pumps, tanks and equipment used in the operation of a completed well shall be enclosed on all sides by a chain-link fence at least six (6) feet in height. The fence shall be topped by not less than three (3) strands of barbed wire sloping outward at approximately a forty-five-degree angle for eighteen (18) inches from the top of the fence. There shall be no aperture below such fence greater than four (4) inches. Alternative fencing, meeting the intent of the above specified standards, may be considered on a site-by-site basis.

b. Where installations existing prior to the effective date of this Code or prior to annexation of the property upon which they are located fail to meet these requirements, they shall be deemed to be nonconforming and subject to compliance within six (6) months from the effective date of this Chapter or of the ordinance annexing such property, as the case may be.

(15) Landscaping and/or screening. Where deemed necessary due to locational factors, i.e. proximity to residential areas, etc., the City may require landscaping and/or screening. In any instance where existing landscaping is damaged or destroyed by drilling, re-drilling, rework, maintenance operations or production activities, it shall be the responsibility of the party to whom the well permit has been issued to restore the landscaping to its original condition.

(16) Noise and vibration requirements. During all operations, from commencement through abandonment, no noise or vibration shall exceed applicable limitations imposed by the City or by the State.

(17) Control of noxious fumes. Escape of noxious fumes, gases, oil or any substance of any nature shall be prevented to the maximum possible extent, and in no event shall they be allowed to become a nuisance to abutting properties.

(18) Painting required. All above-ground equipment, structures and appurtenances not otherwise concealed by a berm or screen fence shall be freshly painted in earthtone colors, and shall be repainted as often as necessary, as determined by the City.

(19) Signs. An approved sign having a surface area of not less than two (2) square feet and not more than six (6) square feet, bearing the current name of the operator, shall be displayed at all times from the commencement of operations until abandonment. The sign shall warn of safety hazards to the public. Advertising signs are prohibited.

(20) Waste control.

a. Activities shall not be permitted which would result in the leakage or spillage of oil or gas. If leakage or spillage occurs, immediate action shall be taken by the operator to stop the same, and to remove any spillage.

b. Grading of oil and gas well sites shall be done in such a manner as to retain all on-site drainage; and in no case may drainage be allowed to flow from the site to adjoining properties.

c. No open pit storage of drilling muds, waste materials, water produced oil or any other material associated with oil or gas installations is permitted.

d. Polluted or brackish water produced on site must be retained in an enclosed steel holding tank and transported to and disposed of at a State approved disposal site or purified to standards acceptable to the City for injection into the well and underlying strata as provided by paragraph e of this Section.

e. Water produced from the well that is not polluted (as determined by the City) may be stored in an enclosed holding tank and returned to the well and underlying strata, in accordance with the Colorado Oil and Gas Commission regulations, with samples and testing of the water to be completed by the operator with results submitted to the City for approval of such action. (Ord. 97-701)

Secs. 9-11—9-12. Reserved.

Sec. 9-13. Notice of certain actions required.

(a) Service of notice. Every operator of any oil or gas well shall designate an agent who is a resident of the State upon whom all orders and notices provided in this Chapter may be served and shall specify in writing a mailing address for such agent. Every operator so designating such agent shall, within ten (10) calendar days, notify the Administrative Services Director in writing, of any

change in such agent or such mailing address unless operations in the City are discontinued. The City may serve any notice provided in this Chapter upon the operator by mailing the same, postage prepaid, to the operator's designated agent at his or her designated address. Service shall be complete upon such mailing.

(b) Transfer of operator. The operator shall notify the Administrative Services Director, in writing, of any sale, assignment, transfer, conveyance or exchange by said operator of a well's property and equipment within ten (10) calendar days after such sale, assignment, transfer, conveyance or exchange. The notice shall contain the following:

- (1) The name and address of the person to whom such well and property was sold, assigned, transferred, conveyed, or exchanged.
- (2) The name and location of the well.
- (3) The date of the sale assignment, transfer, conveyance or exchange.
- (4) The date when possession was relinquished by the former operator.
- (5) A description of the properties and equipment involved in the transaction.

(c) Notice by new operator. Every person who acquires any well property or equipment whether by purchase, assignment, transfer, conveyance, exchange or otherwise, shall within ten (10) calendar days after acquiring such well property or equipment, notify the Administrative Services Director, in writing, of his or her ownership. The notice shall include the following:

- (1) The name and address of the person from whom such well and property was acquired.
- (2) The name and location of the well.
- (3) The date of acquisition.
- (4) The date possession was acquired.
- (5) A description of the properties and equipment transferred.
- (6) The person designated for service of notice.

(d) Suspension of drilling operations, production, and redrilling operations. The operator of any well shall notify the Oil and Gas Inspector, in writing, of any temporary suspension of drilling operations, production or redrilling operations, pending a suspension of operations or abandonment. The Oil and Gas Inspector, for good cause, may approve temporary suspension of operations, which temporary suspension shall in no event exceed ninety (90) calendar days. Such notice shall be filed with the Inspector within thirty (30) calendar days from and after release of the drilling crew. Failure of the Inspector to act within ten (10) calendar days shall constitute approval thereof. The operator shall notify the Inspector, in writing, upon resumption of operations, giving the date thereof.

(e) Change in drilling contractors. The operator, before changing the drilling contractor or redrilling contractors, shall file with the Administrative Services Director a written notice of change

giving the name of the original contractor and the name of the proposed contractor. Such notice shall be attached to and become a part of the original oil or gas drilling or redrilling permit. (Ord. 97-701)

Sec. 9-14. Enforcement.

(a) Appointment of Oil and Gas Inspector. The City Administrator may appoint an Oil and Gas Inspector to perform any or all of the duties defined herein. In addition, the Council may contract with an individual or corporation, who by education or experience is qualified to provide expert consultation to the Council and to the Oil and Gas Inspector on matters governed by this Code. The terms and conditions of employment and duties of this independent petroleum consultant shall be set forth by separate contract with the consultant. The Petroleum Consultant shall have the right to free access to the drill site, drilling floor, derrick, treatment and storage facilities and the driller's log for the performance of his or her duties.

(b) The Oil and Gas Inspector shall have the authority to enforce the provisions of this Chapter. If at any time the Oil and Gas Inspector finds that any operator is violating any of the provisions of this Chapter, he or she may order compliance. If compliance is not obtained, the Oil and Gas Inspector may order cessation of operations. The operator shall comply with the order of the Oil and Gas Inspector to cease and shall not resume any operations until written approval by the Oil and Gas Inspector is given. (Ord. 97-701)

Sec. 9-15. Injunctive relief.

The City may seek injunctive relief from any act or acts which are in violation of this Chapter, and the penalties in this Code shall be in addition to such injunctive relief. In any civil action instituted for such relief, the Court shall award the City attorney's fees, damages, expert witness fees and court costs if violations are established. (Ord. 97-701)

Sec. 9-16. Severability.

If any part or parts of this Section are invalidated by operation of the legislative or judicial branch of the state government, it is the intention of the Council that such parts be severed from this Section and the remaining parts continue in full force and effect. (Ord. 97-701)

Secs. 9-17—9-30. Reserved.