

COLORADO

MODEL COUNTY OIL AND GAS REGULATIONS



Oil and Gas Accountability Project

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COLORADO COUNTY OIL AND GAS MODEL REGULATIONS DRAFT

100. Authority and Purpose.

1. Authority of Article.

This article is authorized by C.R.S. §§ 29-20-101 et seq., 34-60-101 et seq., and 30-28-101 et seq.

2. Purpose of Article.

This article is enacted to protect and promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future residents of the county. It is the county's intent by enacting this article to facilitate the development of oil and gas resources within the unincorporated area of the county while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. It is recognized that under state law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of this article and any other applicable statutory and regulatory requirements. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and to have adverse land use impacts upon their property, associated with the development of the mineral estate, mitigated through compliance with this article. Should it be established by competent evidence that a proposed oil and gas facility cannot be operated in compliance with this article, county land use approval for such a facility may be denied.

3. Jurisdiction.

This article shall apply to lands within the unincorporated area of the county with the exception of those lands where the county's jurisdiction is preempted by federal or state law, or [federal lands].

101. General Procedures.

1. Development Permit Required.

Development of oil and gas facilities within the unincorporated areas of the county, as to which the county's legal jurisdiction has not been preempted by state or federal law, shall be subject to

the provisions of this article and any other applicable regulations of the county, as well as any state or federal entities or agencies having jurisdiction over such development. Construction, installation and operation of oil and gas facilities which are subject to this article shall not commence until a development permit has been granted by the County.

2. Application.

The application for a Development Permit shall be made on application forms available at the County Planning/Land Use Department. Such forms shall have all spaces completed, designate all agents, exhibit all owner or operator signatures, and be accompanied by required fees and all materials required by these regulations.

3. Development Permit Submittal Requirements.

The applicant shall submit eight copies of the proposed development plan with the completed application form to the County Planning/Land Use Department. The following information must be submitted with a development plan application:

- A vicinity map indicating the section, township, and range of the site, and its relation to surrounding public roads and municipal boundaries.
- A detailed drawing of the site at a scale of 1 inch to 100 feet, including the following:
 - the dimensions of the site, indicating area in square feet and acres, and the area of the site to be disturbed;
 - the location of all structures, flowlines or pipelines, tanks, wells, pits, and any other oil and gas operation facilities or equipment;
 - existing and proposed roads within the site as well as ingress and egress from public or private roads;
 - lease lines, if applicable;
 - on-site features such as floodplain designations, water courses, drainage, utility lines and easements, ditches, wetlands or aquatic habitat, significant plant ecosystems, wildlife habitat and migration routes, geologic features, vegetative cover, dams, reservoirs, mines, and known cultural resources;
 - existing and proposed topography of the site at intervals of five feet; and
 - existing and proposed vegetation, buffers, berms, fences, and other screening devices.

- Diagram showing adjacent properties and the approximate location of buildings and their uses within a distance of 400 feet of any proposed structure, facility, or area to be disturbed. This may be drawn at a smaller scale than the site plan.
- Copies of application forms for all applicable local, state, or federal permits, including OGCC Forms 1 and 2.
- Evidence of surface owner notification, of mineral lease agreements, and of surface agreements where the surface owner is not a party to the mineral lease.
- Copies of financial guarantees in the form of bonds, letters of credit, cash, certificates of deposit, or other guarantees acceptable to the County, if the Director determines that financial guarantees are necessary to assure the performance of specific conditions of approval of the development plan pursuant to Section ____ herein. This requirement may be waived by the Director if the Director is satisfied that individual bonds posted with the OGCC for the proposed operation cover the conditions of the development plan approval granted under this Article, or if the operator posts a blanket bond with the Director covering all operations conducted in County in an amount of \$500,000 or more.
- An operation plan including the method of and schedule for the drilling, completion, production, abandonment and reclamation phases of the operation.
- An emergency response plan meeting the requirements of Section ____ herein.
- A reclamation plan meeting the requirements of Section ____ herein, including proposed recontouring, revegetation or other appropriate measures to restore the surface while operations proceed or after they cease.
- A noise, odor, and dust abatement plan to control impacts on adjacent properties.
- Any proposed measures necessary to mitigate anticipated adverse impacts on the aesthetic features of the site, views from surrounding properties or public rights-of-way, or on significant environmental resources such as wetlands or plant and wildlife habitats.
- An access and transportation route plan.
- A waste disposal plan.
- A drainage and erosion control plan for both on-site and off-site drainage.
- An undesirable plant management plan for the site.

4. Fee Schedule.

The application fees to be imposed pursuant to this article are set forth in appendix A and adopted by Resolution of the Board of County Commissioners. Fees to be charged in association with the provisions of this article may be amended periodically by the Board of County Commissioners.

5. Review and Referrals by Director.

- The Director shall coordinate the review of the development permit application. Upon the filing of a complete application for development permit, the Director shall promptly forward one copy to the following agencies/entities: surface estate owners, ____, ____, ____, ____. The Director may also refer the application to other government agencies or entities for review and comment. The reviewing agencies will be asked to return their comments within 15 days of the receipt of the referral, or as otherwise provided by state law.
- Oil and gas facilities shall also be reviewed for general consistency with the standards and policies set forth in the following documents:
 - The county oil and gas regulations;
 - The county land use regulation;
 - The county master plan;
 - County road and drainage design specifications and standards;
 - Plans and regulations of municipalities in the county, if applicable;
 - Other applicable local, county, state and federal plans, policies and regulations.
- Where applications are scheduled for public review, the commission shall provide comments on the application at the meeting prescribed in Section ____ herein. Comments from the reviewing agencies will also be provided. Comments from interested members of the public will be received at the meeting and incorporated into the written transcript of the meeting. A written copy of the comments will be made available by the County Land Use/Planning department to any interested party within 15 days of such meeting.

6. Notice.

An application for approval of a proposed facility, when submitted to the County Land Use/Planning department, shall include a notarized certification, by the applicant or its designated agent, that written notice of the application has been made as follows:

- To the current surface owners of the parcels of land within which the facility is proposed to be located, as well as the current surface owners of those parcels of land adjacent to the parcels within which the facility is proposed to be located, as such ownership is indicated

for tax purposes in the current records of the county assessor's office. For the purposes of notice, a parcel is adjacent if it is physically contiguous to the subject parcel upon which the proposed facility is to be located, or, if not physically contiguous, is separated from the subject parcel by a public or private right-of-way, or body of water. Notice shall be made by either personal service or first class mail.

- The notice of the application for approval of a facility shall be in the form prescribed by this subcategory and shall contain the following:
 - A description of the proposed facility site location, including a legal description, as well as a street address for the site, if available from the county's rural addressing system. The identification of the applicant and its designated agent for the application, if any; the current business address and telephone number for the applicant and its agent, if one has been designated; and, a brief description of the facilities and equipment proposed to be located at the site when operational.
 - The submittal date of the application to planning. A statement that if planning determines that the application is complete and in compliance with the applicable county regulations, it will issue approval for the proposed facility within seven working days of its submittal.
 - The current address and telephone number for planning, as well as a statement that additional information on the application will be available from planning.
 - A list of all applications for facilities shall be posted in the county courthouse, in a location designated by the board of county commissioners. An application for approval of a proposed facility shall be placed on the list within three working days of its submittal, if planning has determined that it is complete.

7. Permit Approval and Conditions of Approval.

- If the Director finds in reviewing a development plan application that the application meets the applicable standards set forth herein, the Director shall approve the site plan, and the applicant may continue the processing of the building or other associated County permit application, or otherwise engage in the proposed oil and gas operation.
- If the Director finds that the application does not meet an applicable standard or standards, the application shall be approved with appropriate reasonable conditions imposed to avoid or minimize the significant adverse impacts of the development. Such conditions may include, but are not necessarily limited to, the relocation or modification of proposed access roads, facilities, or structures; visual mitigation, including but not limited to landscaping, buffering, or screening; posting of adequate financial guarantees; compliance with specified surface reclamation measures; or any other measures necessary to mitigate any significant impact on surrounding properties and infrastructure.

- If the Director finds that the application does not meet an applicable standard or standards and that a conditional approval will not avoid or minimize the significant adverse impacts of the development, the Director shall deny the application.

8. Applicant's Right of Appeal of Conditional Approval or Denial.

- In the event that the Director conditionally approves or denies a development plan application, the applicant shall be entitled to appeal the conditional approval or denial to the Board of County Commissioners. The applicant must file an appeal for this purpose with the Director in writing no later than seven days after the date of the Director's determination. If the determination is mailed to the applicant, three additional days for mailing shall be added to the time for filing an appeal.
- The Board shall review the Director's determination at a public hearing held as soon as practical after the date of the determination. Prior written notice of this hearing shall be provided to the applicant and to property owners within 1,500 feet, and shall be published as part of the Board's agenda in a newspaper of general circulation in the County.
- At the public hearing the Board shall consider evidence related to the Director's determination which may be presented by County staff, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the appeal, but may review any aspect of the development plan application. Based upon this evidence the Board may affirm the Director's determination, or may approve the development plan with modified, altered, deleted, or added conditions in accordance with Section _____ of this Article. No County building, grading, access, or floodplain development permit shall be issued, or the applicant otherwise allowed to proceed with the operation, until the Board acts on the Director's determination at the public hearing, and approves the development plan with or without the addition or modification of conditions.

9. Board of County Commissioners' Review ("Call-up") of a Determination to Approve or Conditionally Approve a Development Plan.

- Any approved or conditionally approved permit shall not become valid until the Call-up period has expired. The Call-up period shall consist of the fourteen (14) days following the Director's approval or conditional approval of a permit. The applicant shall be authorized to proceed with the proposed oil or gas operation 15 calendar days after the date of the Director's approval. At the same time written approval of the development plan is provided to the applicant, the Director shall forward to the Board a written statement which shall include the location of the site, a description of the proposed oil and gas operation, and, the Director's approval of the permit, or, if the development plan is conditionally approved, the conditions of approval.
- Upon receiving the Director's statement, and no later than 14 calendar days after the date of the approval, the Board may call the Director's determination up for review before the Board. The call-up generally shall be made by the Board at a public meeting convened

within this 14-day period. However, if it is not practical for the Board to convene a public meeting for this purpose within the 14-day period, any member of the Board may authorize a call-up within the 14-day period, which call-up shall be effective provided that the Board subsequently ratifies the call-up at a public meeting held within a reasonable period of time after the 14-day period expires.

- The Board shall review the Director's determination at a public hearing held as soon as practical after the Director's determination. Prior written notice of the hearing shall be provided to the applicant and to property owners within 1,500 feet, and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.
- At the public hearing, the Board shall consider evidence related to the Director's determination which may be presented by County staff, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the call-up, but may review any aspect of the development plan application. Based upon this evidence, the Board may affirm the determination, or alter, delete, or add conditions of approval, in accordance with Section _____ of this Article.

10. Effect of the Approved Development Permit.

- After approval of a development permit for an oil and gas operation, the applicant shall be entitled to have processed any necessary building, grading, access, or floodplain development permits or to otherwise proceed with the proposed operation. The approval of a development permit by the Director does not result in the vesting of development rights, nor does it permit the violation of any County or state regulations or preclude the County Building Official or Transportation Department from refusing to issue a permit if the plans and specifications do not comply with applicable County regulations.

11. Inspections.

- The applicant shall provide the telephone number of a contact person who may be reached 24 hours a day for purposes of being notified of any proposed County inspection under this Section. Any site under an approved development plan may be inspected by the County at any time, to ensure compliance with the requirements of the approved development plan, provided that one hour's prior notice is given to the contact person at the telephone number supplied by the applicant. Calling the number (or leaving a message on an available answering machine or voice mail service at the number) at least one hour in advance of the proposed inspection shall constitute sufficient prior notice if the contact person does not answer. By accepting an approved development plan, the applicant grants its consent to such inspections.

12. Enforcement.

- In addition to any other remedy authorized under this Resolution to enforce the provisions of this Article, the Director shall be entitled to draw on any financial guarantee

provided by an applicant pursuant to this Article, if the applicant violates any term or condition of an approved development plan. If the Director has reason to believe that a violation of an approved development plan for which a financial guarantee has been provided has occurred, the Director shall provide written notice to the applicant describing the violation, and stating a reasonable time within which the violation must be corrected. If, within that time period, the applicant has not either corrected the violation or filed a written appeal with the Board of County Commissioners, the Director shall be entitled to enter upon the site to take any reasonable measures to correct the violation, and may draw on the financial guarantee to cover the costs of corrective measures.

- If the applicant files a timely appeal with the Board of County Commissioners, the Board shall schedule a hearing on the appeal at the soonest possible time of which the applicant shall receive reasonable prior notice. If the Board confirms at the hearing that the violation has occurred and has not been corrected, the Board in its discretion may give the applicant additional time to correct the violation, or may specify the time at which the Director may take appropriate action to have the violation corrected and draw on the financial guarantee to cover the costs of corrective measures.
- To insure the Director's ability to enforce the provisions of any approved development plan, the Director shall not release any financial guarantee provided under this Article for an individual development plan, until the Director confirms that all operations have been completed and all provisions of the plan complied with. The Director shall not release any blanket bond or other blanket financial guarantee provided under this Article unless he is satisfied that the person providing the bond has adequately declared its intention to conduct no further oil and gas operations in the County in the foreseeable future. The Director shall also be empowered to release a financial guarantee if a successor to an operator provides satisfactory guarantees in accordance with this Article.

13. Amendments to a Development Plan.

- Any proposal to change a development plan approved under this Article shall require an application to the Land Use Department to determine whether the proposed change constitutes a substantial modification to the approved plan. If the Director determines that the change constitutes a substantial modification, no such change shall be allowed to proceed until an application to amend the approved development plan is filed with the Director and approval granted in accordance with this Article. The applicant or its successor may appeal the Director's decision to require an amended development plan to the Board of County Commissioners, provided that any such appeal shall be in writing and shall be filed with the Land Use Director no later than 30 days following the date of the Director's decision to require a development plan amendment.

14. Deadline for Determination.

- Any determination by the Director to approve or conditionally approve a development plan application must be in writing and mailed or otherwise provided to the applicant no later than 28 days after the date on which the development plan application is filed.

Failure to make a determination on the application within this time period shall result in the application being considered approved and the applicant's building permit or associated grading, access, or floodplain development permit being processed.

15. False or Inaccurate Information.

The board of county commissioners may revoke approval of a facility if it is determined at a public meeting, held on at least ten days notice to the applicant, that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants and employees knew, or reasonably should have known, was false, misleading, deceptive or inaccurate. The applicant and planning shall be provided with an opportunity to be heard at the public meeting prior to the board of county commissioners rendering its decision.

16. Liability Insurance.

For any facility permitted under this article, the applicant shall submit a certificate of insurance to the county planning 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 \$400,000.00 per occurrence, insuring the applicant against all claims or causes of action made against the applicant for damages arising out of the drilling, maintenance, operation or other work done with respect to such proposed facilities. The policy shall be written by a company authorized to do business in the state, unless the applicant is self-insured. The certificate shall require at least 30 days' notice to the county prior to termination of coverage for any reason. If the insurance policy lapses or becomes void for any reason whatsoever, the approval shall cease to be valid until a new insurance certificate is provided and filed with planning. All approved oil or gas or related activity shall cease, consistent with safety considerations, until the applicant provides evidence that insurance coverage in the prescribed amount is in effect.

17. Performance Security.

The applicant shall provide one form of the following security to ensure compliance with mitigation requirements set forth in this article and specific conditions of approval for facilities: \$5,000.00 performance bond for each facility; \$50,000.00 countywide blanket bond for all facilities operated by the applicant within the county; irrevocable letter of credit; or equivalent financial security acceptable to the county. Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public and/or adjacent landowners by the applicable performance standards contained in this section. Reclamation activities which fall under O.G.C.C. jurisdiction are exempted from this performance security coverage.

102. Development Permit Review Standards and Criteria for Approval.

A development permit shall be approved, conditionally approved or denied in accordance with the following standards and criteria.

1. Noise.

A. Any equipment used in drilling, completion, or production of a well must comply with the maximum permissible noise levels set forth at C.R.S. § 25-12-103.

B. Where a facility does not comply with the required setback or other portions of the performance standards, additional noise mitigation may be required. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to, the following:

- (1) Nature and proximity of adjacent development (design, location, type).
- (2) Prevailing weather patterns, including wind directions.
- (3) Vegetative cover on or adjacent to the site.
- (4) Topography.

C. Based upon the specific site characteristics set forth in this section, nature of the proposed activity and its proximity to surrounding development, and type and intensity of the noise emitted, additional noise abatement measures may be required. 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, listed below in ascending order of mitigation, may be required:

- (1) acoustically insulated housing or covers enclosing any motor or engine;
- (2) screening of the site or noise emitting equipment by fence or landscaping;
- (3) Solid wall or fence of acoustically insulating material surrounding all or part of the facility.
- (4) a noise management plan specifying the hours of maximum noise and the type, frequency, and level of noise to be emitted; and
- (5) any other noise mitigation measures required by the OGCC.
- (6) Construction of buildings or other enclosures may be required where facilities create noise and visual impacts nonmitigable because of proximity, density and/or intensity of adjacent land use.

2. Visual Mitigation.

(A) *Visual Mitigation Plan*

- (1) A visual mitigation plan shall be required for all new facilities. The plan shall incorporate the appropriate design elements of subsections (B)(1)—(B)(10) of this section and include the design information in subsection (A)(2) of this section. The requirement for a visual mitigation plan may be waived by the county planning director if a plan is deemed unnecessary.
- (2) The visual mitigation plan minimum requirements are as follows:
 - a. Compliance with the design elements of subsections 90-123(c)(1-10).
 - b. Scaled drawing.
 - c. Site boundary dimensions and descriptions.
 - d. Existing and proposed contours and pad elevations.
 - e. Existing conditions and site features that incorporate and surround such site to be developed.
 - f. Existing and proposed access.
 - g. Cross section of existing and proposed contours, if applicable.
 - h. Orientation and dimensions of facilities (pump jacks, buildings, etc.).
 - i. Description of existing and proposed vegetation.
 - j. Location, height and extent of perimeter berms, if applicable.
 - k. Type, location and amount of mulch materials, if applicable.
 - l. Type, location and height of fencing, if applicable.
 - m. Delineate drainage and runoff patterns and mitigation.
 - n. Direction and type of lighting, if applicable.
 - o. Written maintenance and irrigation plan for at least one year after revegetation.
 - p. Title block:
 1. Name of development;
 2. Name of applicant or developers;

3. Project number;
 4. Date of preparation; and
 5. Section, township and range.
- q. Vicinity map:
1. Major roads, adjacent subdivisions and town boundaries;
 2. Section, township and range; and
 3. Rivers, streams, ponds and wetlands.
- r. Performance security. For sites requiring a visual mitigation plan, performance security shall remain in place for at least one year after installation of the plant and landscape materials. The performance security shall be of an amount sufficient to cover the costs of the proposed improvement or the bonding requirements set forth in Section _____ herein.

(B) *Visual impacts.*

- (1) To the maximum extent possible, the applicant shall use structures of minimal size to satisfy present and future functional requirements.
- (2) When clearing trees and vegetation for construction of facilities, the applicant shall feather and thin edges of vegetation.
- (3) The applicant shall replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.
- (4) To the maximum extent possible, the applicant shall align access roads to follow existing grades and minimize cuts and fills.
- (5) Facilities shall be painted as follows:
 - a. Uniform, noncontrasting, nonreflective color tones, similar to Munsell Soil Color coding system.
 - b. Color matched to land, not sky, slightly darker than adjacent landscape.
- (6) The applicant shall minimize damage to existing trees and vegetation.

- (7) Pad dimensions for a facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance.
- (8) Within six months after well completion, the pad area (except the main access road and the immediate areas within 25 feet of the aboveground facilities) shall be reseeded with native grasses or existing vegetation acceptable to the surface owner.
- (9) One or more of the following landscape practices shall be applied, on a site specific basis:
 - a. Establishment of berms, ground covers, shrubs and trees. Landscaping shall follow the guidelines as established in section 82-165 of subpart B of this code. Vegetation clusters shall be placed 10-15 feet apart along the edge of the permanent pad site.
 - b. Shaping cuts and fills to appear as natural forms.
 - c. Cutting rock areas to create irregular forms.
 - d. Designing the facility to utilize natural screens.
 - e. Construction of fences such as woven wood or rock for use with or instead of landscaping.
- (10). Exterior lighting, when required, shall be directed away from residential areas, or effectively shielded from such areas.
- (11). All equipment used for drilling, re-drilling and maintenance of the facility shall be removed from the site within thirty (30) days of completion of the work, unless otherwise agreed to by the surface owner. Permanent storage of equipment on well pad sites shall not be allowed, unless otherwise agreed to by the surface owner.

3. Additional Visual Mitigation in Visually Sensitive Areas.

In addition to visual mitigation requires set forth in Section ___ above, well sites located within a visually sensitive area shall be mitigated according to the provisions of this section. Visually sensitive areas shall be defined as any area within ___ feet of a residences, school, health care facility, or place of public assembly, _____ feet from a public road, and _____ feet from a property line. Any well within a visually sensitive area shall use one mitigation measure from each of the three rows in the visual mitigation table.

Visual Mitigation Table.

	Landscaping	Equipment and Size
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A	Five foot berm with no greater than a 3:1 slope ratio.	Reclaim drilling pad up to the drilling anchors.
B	Category 1 Visual Mitigation	Production equipment will be no greater than 10 feet tall (i.e. horizontal separator/dehydrator and low profile pumps*.)
C	Category 2 Visual Mitigation (If landscaping is provided according to this section than Category 1 Visual Mitigation is not required)	There will be no motorized production equipment on the site or production equipment will use electric motors instead of gas-reciprocating engines.

Category 1 Visual Mitigation.

The minimum amount of landscaping shall be 10% of the total area developed. For example, a well pad that is 300’ by 100’ (30,000 square feet) would require 3,000 square feet of landscaped area. Landscaping shall be placed along the perimeter of the site between the surface equipment and the sensitive visual area (i.e. roads, property lines, or residences).

Landscaping shall include at least one specimen tree for each 400 square feet of required landscaped area (A specimen tree shall be defined as a forty-eight (48") inch box tree with a trunk diameter of three (3") inches as measured four and one-half (4 ½’) above the root crown) and one shrub (no less than 5-gallon plants) for every 200 square feet of planting area. At least fifty percent of the specimen trees and shrubs shall be evergreens to provide for year-round mitigation.

Landscaping plans shall be produced by a certified landscape architect or arborist and include drought tolerant species that are less desirable to wildlife and suitable for the climate and soil conditions of the area.

Equivalent landscaping may be established on the adjacent property if the surface owner is not willing to allow landscaping on their property.

Category 2 Visual Mitigation.

The minimum amount of landscaping shall be 15% of total area developed. For example, a well pad that is 300’ by 100’ (30,000 square feet) would require 4,500 square feet of landscaped area. Landscaping shall be placed along the perimeter of the site between the surface equipment and the sensitive visual area (i.e. roads, property lines, or residences).

Landscaping shall include at least one specimen tree for each 200 square feet of required landscaped area (A specimen tree shall be defined as a forty-eight (48") inch box tree with a trunk diameter of three (3") inches as measured four and one-half (4 ½’) above the root crown)

and one shrub (no less than 5-gallon plants) for every 100 square feet of planting area. At least fifty percent of the specimen trees and shrubs shall be evergreens to provide for year-round mitigation.

Landscaping plans shall be produced by a certified landscape architect or arborist and include drought tolerant species that are less desirable to wildlife and suitable for the climate and soil conditions of the area.

An irrigation plan shall be required for the first two years after establishment of the vegetation and a financial guarantee shall be placed with the City/County in an amount equal to the value of the landscaping.

Equivalent landscaping may be established on the adjacent property if the surface owner is not willing to allow landscaping on their property.

Low profile pumps can include any of the following or any other device deemed by the Director to be equivalent in diminishing visual impact.



4. **Water.**

An approved or conditionally approved well permit shall comply with the following requirements:

A. Comply with COGCC water well testing and water-bearing formation protection procedures and requirements.

B. All Bradenhead and water well testing data shall be forwarded to the Local Government Designee.

C. All oil and gas operations shall comply with all applicable state water quality standards and classifications established by the Water Quality Control Commission.

D. Comply with the Water Right Determination and Administration Act and the Ground Water Management Act for beneficial uses of produced water related to coalbed methane production.

5. **Location of Wells.**

A. **Location on private property.** Recognizing the need to avoid operational conflicts, yet recognizing the rights of surface owners, the right of the county to determine land uses and the right of the mineral estate to extract minerals, the following criteria shall be used in siting oil and gas facilities on private property:

- (1) The siting of a facility shall adhere to the standards outlined in this section to the maximum extent practical.
- (2) The siting of a facility shall lie within the Colorado Oil & Gas Conservation Commission (COGCC) determined drilling window, or in a location that complies with COGCC rules and regulations.
- (3) The standards in this code shall not cause the operator to site the facility in: a geologic hazard area, as defined on the county's geologic hazards and constraint maps; an area with slopes exceeding 30 percent; an area of wetlands under the jurisdiction of the U.S. Army Corps of Engineers; in an area within a floodway of a stream or river as shown on the Flood Insurance Rate Maps (FIRM) or as determined by a state licensed professional engineer.

The following criteria shall be used to site an oil and gas facility. Facilities that cannot comply with criteria a. through e. may be denied according to section ____ or may be required to mitigate the site as outlined in subsections _____. Facilities that cannot comply with criteria f. through j. may be required to mitigate the site as outlined in _____.

The mitigation requirements may be waived by the planning director if existing topography and vegetation mitigate the visual and sound impacts of the site. The county shall determine the compliance of the proposal using the following standards. Standards are ranked according to importance. Where conflicts between standards occur the higher ranked standard will be used.

- a. Facilities shall adhere to the setback and location requirements found in section ____.
 - b. Facilities shall be sited to minimize the impact to existing residences, commercial structures, public buildings, and county approved platted building envelopes.
 - c. Facilities shall be constructed using existing infrastructure. This includes, but is not limited to, the use of existing roads, pipeline routes, and well pads within the existing drilling windows.
 - d. Facilities shall be sited to minimize the impact to agricultural operations.
 - e. Facilities shall be sited in areas that maximize the amount of natural screening available for the facility. Natural screening includes, but is not limited to, the use of existing vegetation as a background, the construction of the facility near mature stands of vegetation, the construction of the facility in canyons or behind ridges and natural rock formations.
 - f. Facilities shall be sited at the base of slopes to provide a background of topography and/or natural cover.
 - g. Facilities shall be sited to avoid crossing hills and ridges or silhouetting.
 - h. Facilities shall be sited in order to minimize the amount of cut and fill needed to construct the facility.
 - i. Facilities shall be sited away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings and other landmarks.
 - j. The provisions of any existing surface use agreement should be taken into consideration regarding the siting of a facility.
- (5) At the request of either the operator, surface owner, or any other landowner receiving notice pursuant to section____, planning staff will conduct a public site visit with all interested parties to evaluate locations, compliance with county Code and mitigation that may be required under subsection _____. When possible this site visit will be coordinated with site visits required by COGCC rules.

- (6) The operator or surface owner may appeal the administrative siting decision of planning staff to the board of county commissioners pursuant to the applicable appellate procedures set forth herein.
- (7) If the COGCC spacing rules require a well to be located contrary to the location as required by these regulations, the applicant shall apply for a variance with the COGCC to meet the County's well location requirements. If such a variance is not granted, the location as required by these regulations shall be complied with to the maximum extent possible. The Director may impose additional mitigation measures as necessary to protect the public health, safety, and welfare when the well is not located as required by these regulations.

6. Roads.

Access roads on the site and access points to public roads shall be reviewed by the County Transportation Department. All access and oversize or overweight vehicle permits must be obtained from the County Transportation Department prior to beginning operation. All proposed transportation routes to the site shall also be reviewed and approved by the County Transportation Department to minimize traffic hazards and adverse impacts on public roadways. Existing roads shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise.

7. Gathering Lines.

Gas gathering lines for any facility shall be shown on the site plan for each individual well. A re-vegetation plan shall be submitted for all gathering line which shall include sufficient procedures for seeding, crimping and weed control. Prior to installation of gathering lines, permits for road crossings and work in County rights of way shall be obtained, where necessary.

8. Emergency Preparedness.

Each operator with facilities in the county is required to provide an emergency preparedness plan. No applications for a facility shall be considered until the operator has provided such plan to the county. The plan shall be filed with the county and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.). The emergency plan shall consist of the following information, as a minimum:

- (1) Name, address and phone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations.
- (2) An as-built facilities map showing the name, location and description of all facilities, including the size and type of all pipelines and isolation valves (note: isolation valves shall not be operated by anyone except the owner of the pipeline). The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps

(one inch = 2,000 feet), or digitally on the county geographic information system parcel maps. The as-built facilities map which includes the information regarding the location of isolation valves shall be held confidentially by the county's public safety officer, and shall only be disclosed in the event of an emergency. The county's public safety officer shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S. § 24-72-204(3)(a)(IV).

- (3) Provide a written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.
- (4) Project specific emergency preparedness plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas, as determined by the county's public safety officer. This plan shall be coordinated with and approved by the county's public safety officer prior to beginning field operations.

9. Fracing/Cavitation.

An approved or conditionally approved well permit shall meet the following requirement:

1. The permit holder shall provide a list of all chemicals used in Hydraulic Fracturing operations to the Local Government Designee.

Additionally, an approved or conditionally approved well permit shall contain the following statement concerning Hydraulic Fracturing:

Hydraulic fracturing is a common procedure used to fracture underground formations with fluids under very high pressures to force production of oil and gas. A single fracturing operation involves the injection of a ton of sand, mixed with materials that include benzene, polycyclic aromatic hydrocarbons, ethylbenzene, toluene and xylene. Diesel fuel, commonly used in fracturing operations, contains MTBE. Very small quantities of toxic and carcinogenic chemicals such as benzene are capable of contaminating underground sources of drinking water. For example, only 28 teaspoons of MTBE could contaminate millions of gallons of water.

The U.S. Environmental Protection Agency (EPA) has recommended that the oil and gas industry remove any threat whatsoever from injection fluids – especially to discontinue the use of diesel fuel in hydraulic fracturing fluids. Remediation of contaminated ground water is very difficult, extremely expensive, and often impossible. Due to the potential that toxic chemicals used in fracturing fluids have for contaminating underground sources of drinking water, a precautionary

strategy is the best approach to protecting current and future drinking water supplies.

10. Fire Prevention.

Each operator with facilities in the county is required to provide a fire prevention and safety plan that has been approved by the local fire district or the County sheriff, as appropriate.

11. Setbacks.

In order to buffer oil and gas operations from surrounding properties, wells and any associated oil and gas operation facility or structure requiring a building permit shall meet the following setbacks:

- (1) a minimum of ____ feet from the site perimeter of the facility and any occupied building or occupied building permitted for construction, unless verified written consent is obtained from the affected property owner;
- (2) a minimum of ____ feet from the site perimeter of the facility and the closest platted subdivision lot line, unless verified written consent is obtained from the affected property owner; and
- (2) a minimum of ____ feet from the site perimeter and any public right-of-way.

In addition, wells and any associated oil and gas operation facility or structure requiring a building permit shall not be located in subdivisions containing lots of ten acres or less.

A smaller set back may be granted by the Director if the surface owner agrees and if there is no adverse impact on adjacent properties created by the reduced setback. No reduction in setback, however, shall violate the setbacks of the applicable zoning district in which the operation is located, or the major road setbacks of Section _____.

If the OGCC spacing rules require location of wells at a distance less than these minimum requirements, the applicant shall apply for a variance with the OGCC to meet the County's setback requirements. If such a variance is not granted, the setbacks specified in these regulations shall be complied with to the maximum extent possible. The Director may impose additional mitigation measures as necessary to protect the public health, safety, and welfare where these setbacks cannot be met.

12. Reclamation (initial and final).

Initial and Final reclamation shall be governed by a reclamation plan for the facility. The reclamation plan shall provide for a reasonable reclamation schedule in light of the specific surface use and surrounding land uses, and may require recontouring and revegetation of the surface to pre-disturbance conditions. The Director may also approve a plan for an alternative post-disturbance reclamation, provided the surface owner and the applicant agree, and the plan is in harmony with the surrounding land uses and the Comprehensive Plan.

13. Pad Size.

Individual well pad size shall be limited as follows: _____

14. Innovative Drilling Techniques.

[CAVEAT: this area is firmly within jurisdiction of COGCC]

15. Surface Damages and Surface Use Agreements.

16. Air Quality.

Air contaminant emissions shall be in compliance with the permit and control provisions of the Colorado Air Quality Control Program, Title 25, Article 7, C.R.S., and the fugitive dust regulations administered by the County Health Department.

17. Operational Conflict.

Special exceptions to these regulations may be granted where the requirements of this division actually conflict in operation with the requirements of the Oil and Gas Conservation Act or implementing regulations. All applications where a special exception due to operational conflicts is requested shall be heard in a noticed public hearing by the board of county commissioners acting in a quasi-judicial capacity. The applicant shall have the burden of pleading and proving an actual, material, irreconcilable operational conflict between the requirements of this division and those of the COGCC in the context of a specific application. For purposes of this section, an operational conflict exists where the county condition of approval or regulation actually conflicts in operation with the state statutory or regulatory scheme, and such conflict would materially impede or destroy the state's interest in the development, production, and utilization of oil and gas resources in the state, and the protection of the public health, safety and welfare. An operational conflict may occur where the county regulation prohibits an activity which the COGCC, or its valid regulations, has clearly authorized, or authorizes an activity which the COGCC, or its valid regulations, has clearly prohibited. Additional county requirements in areas regulated by the COGCC, which also fall within county land use 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, shall be presumed not to present an operational conflict. If the board of county commissioners finds, based upon competent evidence in the record, that compliance with the requirements of this division shall result in an operational conflict with the state statutory and regulatory scheme, a special exception to this division may be granted, in whole or in part, but only to that extent. The board of county commissioners may condition the approval of a special exception as necessary to protect the public health, safety and welfare by mitigating any adverse impacts arising from the grant of approval.

18. Definitions.

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

Abandonment means that the presumption of permanent abandonment of a well shall be based on the operator's filing with the Oil and Gas Conservation Commission (O.G.C.C.). Presumption of permanent abandonment of a facility shall be based upon nonuse or operation for one year without notification to the planning department of the intent to resume operations under specified conditions, or as otherwise defined by the O.G.C.C.

Agricultural means currently in use for farm or ranch purposes, including pasture.

Applicant means that person, corporation or other legal entity possessing the legal right to develop the mineral resource or any other use proposed in connection thereof for the site in question; generally, the applicant will be the owner or lessee of the mineral estate.

Collection line means a pipeline to a well designed to collect produced or waste water and transport it to a central disposal area (evaporation pit or injection well).

Compatible means able to exist or act together harmoniously, considering noise levels, odors, potential fire hazard, visual impacts, effects to surface water and groundwater quality/quantity, adequacy of the road system, air quality and surrounding land uses.

Compressor station means an installation consisting of one or more individual compressors, located on a gathering or transmission line, or both.

Corridor means the route within which a pipeline right-of-way is located.

Critical use hours means that time of day when disturbance is most likely to increase stress to and negatively impact wildlife.

Critical use period means that portion of the year (weeks or months) when disturbance is most likely to increase stress to and negatively impact wildlife.

DOT means the United States Department of Transportation.

Designated agent means an agent designated by the owner or lessee, as defined by the O.G.C.C.

Developable means land considered to be developable for residential purposes if it does not have slopes exceeding 30 percent, and is not located within a geologic hazard area, federally defined floodway, drainage channel or wetland area greater than one acre. (See *Residential*.)

Easement means authorization by a property owner for the use of a designated portion of his property by another, for a specified purpose.

Evaporation pit means an excavated pit used for storing and evaporating wastewater produced in degasification activities, during drilling or production, or both, sometimes lined.

Gas well means a well having a pressure and volume of natural gas; specifically, producing methane, often in combination with a variety of other substances such as butane, propane and carbon dioxide.

Gathering system means a system consisting of well (or gathering), lateral, and trunk pipelines transporting oil, gas or other products derived from oil and gas production to a central facility or transmission line, and so classified under the DOT regulations.

Lessee means the individual or firm leasing mineral rights for development purposes from the owner. The lessee may also be the permittee, for the purposes of this article.

Oil and gas facilities means:

- (1) An individual well site built and operated to produce petroleum and/or natural gas (methane), including auxiliary equipment required for such production, i.e., separators, dehydrators, pumping units, tank batteries, and other equipment located within the perimeter of the well site pad, employing engines or motors with a cumulative horsepower rating of less than 200 bhp, provided it complies with all applicable standards and requirements.
- (2) Gas gathering lines and water collection lines serving oil and gas facilities, including trunk and lateral lines, shall not be subject to the setback standards required for such facilities, but shall comply with other applicable standards in this article.
- (3) Facilities associated with gas gathering lines and water collection lines, such as: drip stations, vent stations, pigging facilities, chemical injection stations, transfer pump stations and valve box, where such equipment or facilities employ engines or motors with a cumulative horsepower rating of less than 200 bhp, which comply with all applicable standards and requirements in this article.
- (4) An individual well head compression and multiple well compression facility powered by motors or engines with a cumulative horsepower rating of less than 200 bhp, which complies with all applicable standards and requirements in this article.
- (5) Storage yards or construction staging areas occupying one acre or less, and which comply with all applicable standards.

- (6) Compressor stations and associated facilities which serve multiple wells employing engines and/or motors with a cumulative horsepower rating of 200 bhp or more.
- (7) Water injection stations and associated facilities.
- (8) Storage yards and construction staging yards which occupy an area of one or more acres.
- (9) Any facility related to the production of oil and/or gas which contains engines and/or motors with a cumulative horsepower rating of 200 bhp or more.
- (10) Gas treating facilities which serve multiple wells or gathering systems.
- (11) Pipelines for which the power of eminent domain is available.

Multiple completion well means a well equipped to produce oil and/or gas separately from more than one reservoir.

Nuisance means a facility which is not being constructed, operated or installed in substantial compliance with the regulations of this article and any applicable conditions of approval and as to which the applicant has failed or refused to abate, correct or discontinue the violation of this article after being ordered to do so by the board of county commissioners.

C.O.G.C.C. means the Oil and Gas Conservation Commission of the State of Colorado.

Operating plan means a general description of a facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure, and any other information related to regular functioning of that facility.

Operator means that individual or firm engaged in all or a portion of the extraction operations at a well or other facility; usually the lessee of the mineral estate, although day-to-day operations may be contracted to another firm.

Platted subdivision lot means any lot created pursuant to state law, which has received subdivision approval by the board of county commissioners since September 1, 1972.

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

Producing (in production) means the development stage in which marketable oil and gas are extracted from a well; may also signify the extraction level at which the quantitative terms of the lease are fulfilled.

Quiet zone means the area within one-half mile of a school, hospital, institution of learning, court, rest home or other designated area where exceptional quiet is necessary, while the such places are in use.

Residential means having an existing residence or platted subdivision lot located within a one-quarter mile radius of a facility site.

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.

Right-of-way means a tract or strip of land, separate and distinct from the adjoining property, owned, occupied or intended to be occupied by an oil, gas and/or water pipeline.

Security fencing means a six-foot chainlink fence topped by three strands of barbed wire, or the equivalent, with a gate that can be secured.

Shut-in means to close a valve on a well so that it stops producing.

Sour gas means natural gas containing hydrogen sulfide (H₂S) and toxic if inhaled in amounts of 4.0 ppm or greater.

Spacing means acreage dedicated to each well producing from the same formation. Spacing regulations are established by the O.G.C.C.

Transmission line means a pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a transmission line by the Department of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended.

All other words used in this article shall be given their usual, customary and accepted meaning in the oil and gas industry, or as defined in the Rules and Regulations of the Oil and Gas Conservation Commission of the State of Colorado.