

SECTION 21
OIL AND GAS DEVELOPMENT

21.1 AUTHORITY:

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

21.2 PURPOSE:

This Section 21 is enacted to protect and promote the health, safety, morals, and convenience, order, prosperity and general welfare of the present and future residents of the county. It is the County's intent by enacting this Section 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 Section 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 Section. Should it be established by competent evidence that a proposed major or minor facility cannot be operated in compliance with this Section, county land use approval for such a facility may be denied.

21.3 JURISDICTION:

This Section 21 shall apply to lands within the unincorporated area of Ouray County with the exception of those lands where the county's jurisdiction is preempted by federal or state law.

A. General Procedures:

- (1) Construction, installation and operation of oil and gas facilities which are subject to this Section shall not commence until administrative approval has been granted by the Land Use Department or approval as a special use following public review has been granted by the Board of County Commissioners.
- (2) Minor oil and gas facilities which comply with the applicable standards and requirements of this Section shall be granted approval by the Land Use Department upon the applicant's submittal of satisfactory documentation, in the manner prescribed, that the facility is or will be in compliance with the standards set forth in this Section.

(21.3)

- (3) Planning Commission review and recommendation together with Board of County Commissioners review and approval shall be required for activities and facilities classified as major facilities.
- (4) While this Section provides standards for development review of the surface aspects of Oil & Gas Development, consistent with applicable state and federal standards, Ouray County encourages the use of directional drilling, the placement of multiple wells on a single site, the use of lined evaporation pits rather than water injection stations, and other innovative techniques, as well as encourages the best management practices as set forth in the Bureau of Land Management “Gold Book” (Surface Operating Standards for Oil and Gas Exploration and Development), Fourth Edition, 2006, or the most current edition.

21.4 MINOR OIL AND GAS FACILITIES:

Minor oil and gas facilities require review and evaluation by the Land Use Department and County Engineer. All subsections of this Section will be reviewed for their applicability. An oil and gas minor facility is defined as follows:

- A. An individual well site built and operated to explore for or 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 fifty (50) bhp;
- B. Facilities associated with gas gathering lines and water collection lines, such as: drip stations, vent stations, pigging facilities, transfer pump stations and valve boxes, where such equipment or facilities employ engines or motors with a cumulative horsepower rating of less than fifty (50) bhp;
- C. Individual wellhead compression and multiple well compression facility powered by motors or engines with a cumulative horsepower of less than fifty (50) bhp;
- D. Storage yards or construction staging areas occupying one (1) acre or less; or
- E. Geophysical (Seismic) and Gas Exploration Operations, including, but not limited to, seismic activities.

21.5 MAJOR OIL AND GAS FACILITIES:

Major oil and gas facilities require a Special Use Permit. Review and recommendation by the Planning Commission as well as review and approval by the Board of County Commissioners shall be required for activities and facilities classified as major facilities. All subsections of this Section will be reviewed for their applicability. Major oil and gas facilities are defined as:

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- A. Compressor stations and associated facilities, which serve multiple wells employing engines and/or motors with a cumulative horsepower rating of fifty (50) bhp or more;
- B. Water injection stations and associated facilities;
- C. Storage yards and construction staging yards, which occupy an area greater than one (1) acre;
- D. Any other facility related to the production of oil and/or gas, which contains engines and/or motors with a cumulative horsepower rating of fifty (50) bhp or more;
- E. Gas treatment facilities, which serve multiple wells or gathering systems;
- F. Chemical injection stations;
- G. Pipelines located outside an individual well site.

21.6 APPLICATION SUBMITTAL:

- A. The applicant shall submit a minimum of five (5) complete copies, or a number as directed by the Land Use Administrator, of the application and associated materials. Submittal requirements are summarized in the following table:

SUBMITTAL REQUIREMENTS

	SUBMITTAL REQUIREMENTS	MINOR FACILITY	MAJOR FACILITY
1.	Application form and filing fee following pre-application meeting (See 21.7 A)	X	X
2.	Proof of right of entry for ingress and egress, installation of all necessary infrastructure and utilities and all applicable surface damages and surface use agreements.	X	X
3.	An appropriate vicinity map showing the designated activity window	X	X
4.	A written description of the proposed well and associated site development including, but not limited to:	X	X
	- description of equipment, including horsepower	X	X
	- hours of operation during construction & during operation	X	X
	- timing of development [specify start and completion dates for development and production]	X	X
	- estimated number of site visits by vehicles per week during development and during production, including any water-hauling	X	X
	- description of proposed noxious weed control	X	X
5.	A detailed site inventory map drawn to scale of 1" = 50' showing:	X	X
	- existing roads	X	X

(21.6A)

SUBMITTAL REQUIREMENTS CONTINUED

	SUBMITTAL REQUIREMENTS	MINOR FACILITY	MAJOR FACILITY
	- existing commercial and residential structures, cultural/historical sites	X	X
	- ecological resources and other features deemed necessary by Planning Staff, within a 500-foot radius of the outer perimeter of the parcel or drilling window containing the proposed Facility	X	X
6.	A detailed site development plan, drawn to a scale of 1" = 50' showing:	X	X
	- the proposed development in the drilling window	X	X
	- well pad location during drilling and permanent production	X	X
	- access road to property and designated roads to well head and facilities	X	X
	-existing and proposed landscaped areas		X
	- exterior lighting locations		X
	- fencing		X
	- utility easements		X
	- any proposed and existing pipelines to be utilized and their related easements	X	X
	- drainage features	X	X
	- existing and proposed topography using 2, 5 or 10 foot contour intervals		X
7.	Color photos of the area taken from the proposed well site facing north, south, east, and west showing existing landscape.	X	X
8.	Color photos of the proposed roads to be used for accessing the property		X
9.	Geophysical (Seismic) Operations information	X	X
10.	Visual mitigation plan	X	X
11.	Road damage mitigation plan	X	X
12.	Environmental and Wildlife Mitigation Plan		X
13.	Emergency Preparedness Plan	X	X
14.	Any additional materials as may be required by the Planning Staff that are deemed necessary to fully evaluate the compliance of the proposed Facility with these regulations.	X	X
15.	Copies of all State and Federal permits and required plans (i.e. stormwater, etc.).	X	X

Note: Certain submittal requirements may be waived or modified by the Planning Staff if it is demonstrated that the material to be waived or modified is not applicable to the specific application.

(21.6)

B. Surface Damages and Surface Use Agreements.

For Major and/or Minor Facilities to be located upon real property with split estates, for which the Operator does not currently own or lease the surface estate, the Operator shall provide a copy of any Surface Damages or Surface Use Agreement, and related documents, which have been executed by the owner(s) of the surface estate for the parcel upon which a Major or Minor Facility is to be located, and which detail the agreement of the surface owner for the use of the property, including rights of ingress and egress, provisions for any installation of necessary utilities, and such other provisions relating to the use of the surface estate as may be appropriate. Such submitted agreement(s) may be redacted to delete any provisions pertaining to financial and/or non-monetary compensation that the Operator has paid to the surface owner. In lieu of submitting copies of such agreements, an Operator may submit a notarized written consent or written waiver to the proposed Major or Minor Facility that has been executed by the owner(s) of the surface estate for the parcel(s) upon which such Facility is to be located. Should the Operator not have entered into a Surface Damages or Surface Use Agreement with the owner(s) of the surface estate, the Operator shall submit a written certification to that effect, together with a copy of the bond that has been posted as security for possible surface damages as required by the COGCC rules. For Major and/or Minor Facilities located within a parcel or parcels for which the Operator is the current owner or lessee of the surface estate, the Operator shall provide a copy of a current title policy reflecting the same or a copy of the lease.

C. Geophysical (Seismic) Operations shall also include the following information:

- (1) A Surface Use Plan including all of the information required above, the general location of shothole exploration, the likelihood of detonation failure and surface restoration.
- (2) Operator Certification.
- (3) List of hazardous and/or explosive materials to be used.
- (4) Identification of any wildlife habitat as mapped by the Colorado Division of Wildlife.
- (5) A description of the time period and duration of the operation and any seasonal restrictions per the Colorado Division of Wildlife and/or applicable Federal and/or State permits.
- (6) Documentation authorizing the proposed Geophysical (Seismic) Operation executed by the owner or lessee of the mineral estate(s) and from the surface owner that is the subject of the Geophysical Operation.

21.7 REVIEW PROCESS:

Applications for an Oil and Gas Development Permit shall comply with the following procedures:

A. Pre-Application Meeting:

All Applicants for either a Minor or Major Facility shall schedule and attend a pre-application meeting with a member of the Land Use Department before submitting an application. The purpose of the pre-application meeting is to inform the Applicant of the applicable procedures, submittal requirements, development standards, and other pertinent matters before the Applicant finalizes its proposal. If a formal permit application is not submitted within one hundred-eighty (180) days of the pre-application meeting, a new pre-application meeting must be scheduled and held before the formal application will be accepted.

It shall be the Applicant's responsibility to invite the surface owner to the pre-application meeting by sending a letter at least fourteen (14) days in advance of the pre-application meeting to the surface owner, inviting the surface owner to attend the meeting. Proof of such notice shall be submitted to the Land Use Department by a certificate of mailing.

B. Notice to Adjacent and Affected Property Owners.

The Applicant shall provide written notice to adjacent and affected surface owners, as defined in subsection (1). The Applicant shall present to the Land Use Department proof of such notice by submitting a copy of the notice and a list of the landowners notified, together with an affidavit attesting to such notice executed by the person responsible for providing such written notice. This notice to affected surface owners shall be mailed within three business days of the application being submitted to the Land Use Department. The notice to affected owners shall provide a statement that all written comments regarding the application must be provided to the Land Use Department within fifteen business days after the date of the filing of the application for a Minor Facility and in accordance with the procedures described in Section 5 for a Major Facility, with such specific deadline referenced in the Notice. Written notice of the application shall be made as follows:

- (1) To the current surface owners of the parcel(s) of land upon which the Minor or Major Facility is proposed to be located, as well as the current surface owners of those parcels of land within ¼ mile (1320 feet) of the Facility perimeter. Ownership shall be determined from the current records on file with the Ouray County Assessor and a list of adjacent and affected surface owners obtained from the Assessor's Office shall be submitted along with the Application. For the purpose of notice, a surface owner shall receive notice if its property boundary is within ¼-mile (1,320 feet) from the point indicated as the wellhead or, for Minor Facilities other than wells, from the Facility perimeter as depicted on the Development Plan.

In addition to the required written notice under this provision, the applicant shall at a minimum, contact the Land Use Department and check the records of the Ouray County Clerk and Recorder to ascertain if any landowners required to be provided notice as part of an application are also members of a condominium or homeowner's association. If any landowners are part of such an association,, the Applicant shall also provide written notice to the association in the same manner as other landowners.

(21.7B)

- (2) Such Notice shall include the proposed location of the Major or Minor Facility; a description of the proposed Facility as well as a street address if available; the identification of the Applicant and its designated agent, as well as all contact information for the Applicant and its agent; a vicinity map showing the site and the proposed access roads; construction, facilities and description of the equipment proposed to be used or located upon the site, both during and after completion of the Facility.
- (3) In addition to the written Notice described above, the Applicant shall post a notice (to be obtained from the County) in a conspicuous place on the property or closest public roadway within 5 days of the submittal of the application to the Land Use Department. The Applicant shall submit with its Application a photograph of the posted notice and the date and time that it was posted.

C. Review Procedure for Minor Facilities

Applications for county land use approval for proposed Minor Oil and Gas Facilities require a Development Permit, which shall be administratively processed by the Land Use Administrator or a designee, provided the information in the application establishes that the proposed use complies with the minimum requirements for such facilities as set forth in this article. The COGCC Application for Permit to Drill (APD), subject to planning staff determination of adequacy of this information may suffice as a portion of the application (Development Permit) subject to Administrative Review.

- (1) The Land Use Department and County Engineer shall review the application. The express purpose of the review is to ensure that the proposal complies with all applicable development standards and requirements.
- (2) The staff review, and the subsequent action on the application, shall occur within forty-five (45) calendar days of the Land Use Department's acceptance of a complete Submittal.
- (3) The application shall be reviewed against the requirements of this Section 21.8. Based upon this review the Land Use Department shall approve, approve with conditions, or deny the application. Such approval shall be effective fifteen (15) days after the decision.

(21.7C)

- (4) **Gathering System Lines.** All gathering lines for any Facility shall be shown on the site plan for each individual well. A revegetation plan shall be submitted for all gathering lines, which shall include sufficient procedures for seeding, crimping and weed control. A weed control plan shall be included to control weeds listed on the Colorado State and/or Ouray County Noxious Weed list. Prior to installation of gathering lines, an Encroachment Permit shall be obtained from the Road and Bridge Department for any road crossings and work in County rights-of-way or a County Road. A final as-built plan sufficient to locate final constructed gathering lines shall be provided to the County within 3 months of completion.
- (5) **Appeal of Land Use Administrator's Administrative Decision.** An Applicant, Surface Owner, adjacent property owner or other person who is significantly affected by the Land Use Administrator's decision may appeal the Land Use Administrator's decision by submitting a letter addressed to the Land Use Administrator requesting an appeal. Such appeal letter shall be submitted to the Land Use Administrator within fifteen days of the Administrative Decision complained of. The Board of County Commissioners shall conduct a public meeting within 60 days of submittal of the appeal letter to consider such appeal. The Board shall consider any information supplied to it at the public meeting, and shall render its written decision, based upon the criteria set forth in this Section, within 30 days of the date of the appeal hearing. Such decision shall constitute the final action by the County. During the pendency of the appeal, all action by the Applicant shall be stayed.

D. Review Procedure for Major Oil & Gas Facilities:

- (1) All applications for major facilities shall be scheduled for public review according to the review process described in Section 5 of the Land Use Code. The Planning Commission shall review all such applications at a scheduled public hearing, and shall forward a recommendation for approval, conditional approval, or denial with appropriate findings to the Board of County Commissioners for final action.
- (2) **Review Criteria:** Review and decision to approve or deny an application for a major facility shall be made and determined based upon its compliance with all applicable performance standards and other requirements of this Section and by applying the following criteria to the evidence in the record of proceedings before the Planning Commission and the Board of County Commissioners:
 - (a) **Need.** The demonstrated need for the facility, in the location proposed, to serve the applicant's existing and projected oil and gas development, production and operational requirements.

(21.7D2)

- (b)** Suitability. Suitability of the location of the proposed facility given its size, design and operational characteristics. Factors to be considered include noise levels, impacts upon air and water quality, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety. These factors will be evaluated in accordance with applicable state, county and federal standards and criteria.
- (c)** Adequacy of Existing Roads and Access to the Site. Consideration of existing and proposed road alignment, intersections, condition, structure and site distances; traffic volumes and types of equipment; dust control; existing road uses; and documentation of the Applicant's legal right to use the proposed access(es).
- (d)** Site Characteristics. Factors to be considered are topography, natural hazards (landslides, flooding, wildfire), and current resource values (open space corridor, prime farmland as designated by Natural Resource Conservation Service and wildlife habitat).
- (e)** Compatibility. Compatibility with existing uses and those which can reasonably be anticipated, based upon present subdivision and land use approvals for properties located within the surrounding affected area, as determined by the Board of County Commissioners, based upon competent evidence in the record. A Facility's compatibility with land uses in the surrounding area, which the Board of County Commissioners finds will be affected by its operation, shall be determined by the facility's estimated or projected ability to mitigate the impacts which it generates, as set forth in the facility operational plan, and in accordance with applicable county, state and federal rules, regulations and standards.

(3) Decision by the Board of County Commissioners.

Following the conclusion of its public hearing, the Board of County Commissioners may proceed to verbally render its provisional decision on the application, or it may take the matter under advisement to an announced date certain. Following the Board of County Commissioners' oral announcement of its decision, a written resolution shall be adopted as its final action or decision on the application. This written resolution shall set forth findings based upon competent evidence in the record of proceedings before the Board and any applicable federal, state or county statutes, rules, regulations or policies. The Land Use Department shall prepare the written resolution for the Board of County Commissioners' consideration within fifteen (15) days of the verbal decision, or such period of time as the Board of County Commissioners may specify. For the purposes of judicial review, the Board of County Commissioners' final action or decision on an application shall be deemed to have been made as

of the date upon which the Board of County Commissioners executes the written resolution, which shall constitute the Board of County Commissioners' final action or decision.

21.8 PERFORMANCE STANDARDS FOR ALL OIL AND GAS FACILITIES:

A. The County believes that the potential impacts attendant to future oil and gas development would be best mitigated for the County as a whole if multiple wells are drilled, where possible, on existing well pads (“Pad Drilling”). The County may grant special exceptions to this standard under Section 21.9 when the County finds that one or more of the following factors apply in a manner such that use of an existing well pad is rendered impractical:

- (1) Topographic characteristics of the site;
- (2) Natural resource constraints (e.g. wetlands);
- (3) The location of utilities or similar services;
- (4) Geological factors or where issues concerning distances between wells are present;
- (5) Other site conditions beyond the control of the applicant; or
- (6) Safety concerns.
- (7) At the request of the surface owner or at the County’s own discretion.

B. Land Use Coordination Standards.

- (1) Purpose: The purpose of these standards for land use coordination is to minimize conflicts between oil and gas facilities and other land uses.
- (2) Setbacks. The following setbacks are to be considered a minimum standard and, if deemed appropriate, may be increased based on review criteria.

(a) Minor facilities.

- (i) A minimum setback of at least three hundred (300) feet shall be required between the well head location and any surface waters, or watercourse (including springs, ephemeral wetlands, arroyos, stock ponds and draws);
- (ii) A minimum setback of at least one thousand (1000) feet shall be required between the well head location and any areas of cultural, scenic or environmental significance; and

(21.8B2a)

- (iii)** A setback of at least four hundred (400) feet shall be required between the site perimeter of a minor facility and the closest existing residential structure or occupied building, unless verified written consent is obtained from the affected surface property owner to a waiver of this standard.
 - (iv)** A setback of at least two hundred (200) feet shall be required between the site perimeter of a minor facility and the closest platted subdivision lot line, unless verified written consent is obtained from the affected property owner.
 - (v)** A setback of at least 200 feet from the site perimeter and any public right-of-way.
 - (vi)** A smaller setback may be granted by the County if the surface owner agrees and if there is no adverse impact on adjacent properties. No reduction in setback shall be permitted, however, if such setback would violate the applicable setbacks as set forth in Section 3 of this Code.
 - (vii)** Where compliance with COGCC spacing regulations makes it impossible for the applicant to meet the setbacks stipulated in this Section, and a waiver is not obtained from the affected property owner, the applicant shall not be required to fully meet the above-described setbacks. The applicant shall, however, meet the setbacks to the maximum extent possible within the COGCC spacing regulations and may be required to implement special mitigation measures as described in this Section.
- (b)** Major Facilities.
- (i)** Setbacks for a Major Facility shall be determined on a site specific basis, based on the Major Facility review criteria, provided, however, that at least the minimum setback for a Minor Facility shall be met.
 - (ii)** Major Facilities shall not be located in platted subdivisions containing any lots of ten acres or less.

(21.8B)

(3) Sound Emissions:

- (a)** The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from the closest existing residences or platted subdivision lots.
- (b)** All minor and major facilities with engines or motors, not electrically operated, shall be equipped with quiet design mufflers (also referred to as “hospital grade” or “dual dissipative”) or equivalent. Such equipment shall be properly installed and maintained in proper working order.
- (c)** Where a minor or major 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:
 - (i)** Nature and proximity of adjacent development (design, location, type).
 - (ii)** Prevailing weather patterns, including wind directions
 - (iii)** Vegetative cover on or adjacent to the site.
 - (iv)** Topography.
- (d)** 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:
 - (i)** Acoustically insulated housing or cover enclosing the motor or engine.
 - (ii)** Vegetative screen consisting of trees and shrubs that may be placed within a fenced enclosure.
 - (iii)** Solid wall or fence of acoustically insulating material surrounding all or part of the facility.
 - (iv)** Acoustically insulated building enclosing the installation.

(21.8B3d)

- (v) Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted; and proposed mitigation measures.
- (e) Sound emissions shall be at a minimum to be in accordance with the standards as adopted, and as amended from time to time, of the COGCC.
- (4) Other special mitigation measures. Construction of buildings or other enclosures may be required where facilities create noise and visual impacts non-mitigable because of proximity, density and/or intensity of adjacent land use.
- (5) Vibration. All stationary equipment associated with minor and major facilities shall be anchored on isolation pads so as to minimize transmission of vibration through the ground.

C. Safety and Security

- (1) Security fencing and a locked gate for minor and major facilities shall be required in the following locations:
 - (a) Where there are four (4) or more existing residences within six hundred (600) feet of the facility site perimeter.
 - (b) Where there is a public or private school within six hundred (600) feet of the facility site perimeter.
 - (c) Where there is any other existing structure with commercial occupancy as defined by the adopted building code within six hundred (600) feet of the facility site perimeter.
 - (d) Where there is an existing recreational facility designated by an appropriate federal, state or local authority within six hundred (600) feet of the facility site perimeter.
- (2) Safety practices generally accepted by the oil and gas industry shall be used at all times during drilling and production to minimize the danger to the general public.
- (3) Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured where the facility site is unattended and/or accessible to the general public.
- (4) All land within twenty-five (25) feet of any tank; pit or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.

(21.8C)

- (5) Where the applicant's visual mitigation plan specifies alternative security fencing, the alternative fencing shall apply.

D. Environmental Quality Standards:

- (1) Recognizing the need to avoid operational conflicts, yet recognizing the rights of surface owners, the right of the county to regulate land uses and the right of the mineral estate to extract minerals, the following criteria shall be used in siting oil and gas facilities. Facilities that cannot comply with these criteria may be denied or may be required to mitigate the site. The Land Use Administrator may waive the mitigation requirements 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) The siting of a minor facility shall lie within the COGCC determined drilling window, or in a location that complies with COGCC rules and regulations.
 - (b) The standards in this Code shall not cause the operator to site the facility in: a geologic hazard area; an area with slopes exceeding thirty (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.
 - (c) All facilities shall be sited to minimize the impact to existing residences, commercial structures, public buildings, and county approved platted building envelopes.
 - (d) Minor 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.
 - (e) All facilities shall be sited to minimize the impact to agricultural operations.
 - (f) Appeal of Land Use Administrator's Administrative Decision. An Applicant or Surface Owner may appeal the administrative siting decision by the Land Use Administrator by submitting a letter addressed to the Land Use Administrator requesting an appeal. Such appeal letter shall be submitted to the Land Use Administrator within fifteen days of the Administrative Siting Decision. The Board of County Commissioners shall conduct a public meeting within 60 days to consider such an appeal. The Board shall render its written decision within 30 days of the date of

the appeal hearing, which decision shall constitute the final action of the County. During the pendency of the appeal, all action by the Applicant shall be stayed.

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E. Visual Impacts

- (1) To the maximum extent possible, the applicant shall use structures and equipment of the minimum size necessary to satisfy present and future functional requirements. The Operator is also encouraged to use low profile pumps and equipment to mitigate visual impacts.
- (2) When clearing trees and vegetation for construction of minor and major 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) Minor and major 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 minor facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance but in no instance larger than eight (8) acres. The pad shall be oriented in a manner to reduce visual impact of view corridor or road; ideally the pad shall be sited perpendicular to any roads or highways, not parallel.
- (8) Upon completion of the well or other work associated with a Major or Minor Facility, the Operator shall reseed the disturbed area with native grasses or other vegetation similar in kind to surrounding vegetation. Revegetation on cropland shall be accomplished within three months after completion and within twelve months for non-crop land. The surface owner may agree, in writing, to other suitable deadlines or type of revegetation. The Operator shall ensure that any weeds in the area for revegetation shall be mitigated prior to the re-seeding being performed. The requirements for revegetation shall not apply to main Access Road and the immediate areas surrounding the aboveground facilities, which are necessary for safe operations, and which are to be graveled.

(21.8E)

- (9)** One or more of the following landscape practices shall be applied, on a site specific basis:

 - (a)** Establishment of ground covers, shrubs and trees. Landscaping shall be appropriate to the surrounding territory and vegetation. Vegetation clusters shall be placed ten (10) to fifteen (15) feet apart along the edge of the permanent pad site or as otherwise agreed to by the surface owner.
 - (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.
- (10)** Exterior lighting, when required, shall meet the standards set forth under this Code. Except as otherwise permitted by Section 19 of the Ouray County Land Use Code, all lighting associated with oil and gas development will be shielded to prevent direct visibility of the source of light from off-site, directing all exterior lighting either toward either the ground or the surface of the building. Lighting shall be used as needed rather than all of the time to the extent possible given safety requirements.
- (11)** All 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 or behind ridges and natural rock formations.
- (12)** All facilities shall be sited at the base of slopes to provide a background of topography and/or natural cover.
- (13)** All facilities shall be sited to avoid crossing hills and ridges or silhouetting.
- (14)** All facilities shall be sited in order to minimize the amount of cut and fill needed to construct the facility.
- (15)** Minor and major facilities shall be sited away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings and other landmarks.
- (16)** All equipment used for drilling, re-drilling, well completion and recompletion and maintenance of the facility shall be removed from the site within thirty (30) days of completion of the work for which the equipment is used, 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 and determined by

Ouray County to be in conformance with the applicable Land Use Code standards.

(21.8)

F. Wildlife.

- (1) The following mitigation measures shall be included as appropriate in the site specific wildlife mitigation procedures required under this Section, as appropriate:
 - (a) Avoid conducting drilling and construction activities during critical use periods. (Examples: near eagle nests during nesting, and on big game winter ranges during winter.)
 - (b) Confine vehicular access to established roads except under emergency circumstances.
 - (c) Install gates that can be locked at the first property boundary crossed when accessing a facility from the closest public road.
 - (d) Conduct work in streams in a manner that minimizes siltation and erosion and at a period of little or no flow.
 - (e) Place all pipe below the channel scour depths in streams and rivers to avoid partial diversion or channel discharges.
 - (f) Stabilize excess material at stream and river crossings in place or remove off the site.
 - (g) Fueling and lubrication of construction equipment shall be done off-site and in designated containment areas in a manner that does not impact aquatic environments.
 - (h) Facilities, roads, fencing and lighting shall be sited to minimize the impact and disturbance on wildlife habitat and wildlife corridors as identified or mapped by the Colorado Division of Wildlife, including raptor proofing any potential perching structures.
- (2) Multiple Site Plan: In lieu of a site specific mitigation review for each facility, the applicant may submit to the Land Use Department a multi-site plan addressing cumulative impacts to wildlife from the estimated total number of facilities. The multi-site plan shall include, but not be limited to, all items under subsection F.1 of this Section.
- (3) Nonmitigable Impacts: Impacts from oil and gas facilities that threaten endangered species (as defined by the Colorado Division of Wildlife) shall be considered nonmitigable and grounds for denial.

(21.8)

G. Water:

An approved or conditionally approved Facility shall comply with the following requirements:

- (1) Comply with Oil and Gas Conservation Commission water well testing and water-bearing formation protection procedures and requirements.
- (2) Until such time as final reclamation of a site has been completed as described in the COGCC Reclamation Regulations, all Test and Survey reports and water well testing information that have been required by COGCC to determine the presence of waste or occurrence of pollution, as well as the results from well-head monitoring to allow safe and convenient determinations of pressure and fluid flow shall be forwarded to the Ouray County Land Use Administrator.
- (3) All oil and gas operations shall comply with all applicable state water quality standards and classifications established by the Water Quality Control Commission.
- (4) 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) Identify physical source of water and legal entitlement to use such water (e.g., Water Court decree) for irrigation, dust control and drilling.
- (6) Onsite containment and disposal of water associated with minor and major facilities shall be in accordance with any applicable federal, state or county requirements.
- (7) Where fencing is not otherwise required, containment pits shall be fenced in accordance with the requirements of this Section 21.

H. Geologic Hazard Areas; Floodplains:

- (1) Operator shall demonstrate that a Major Facility is not located within a geologic hazard area as determined by the State of Colorado Geological Survey.
- (2) Major facilities shall comply with Section 10 of this Code when they are located in a one-hundred (100) year floodplain area.

(21.8)

I. Air Quality:

- (1) With respect to wells requiring long-term artificial lift, the operator shall utilize electric motors for all artificial lift installations provided the well pad is within 1320 feet of distribution voltage and the ability to do so is not cost prohibitive due to the demands of property owners from whom easements are required, topography or other physical features (e.g., the presence of a river). If distribution voltage is not currently within 1320 feet of the proposed well pad, the operator shall contact and provide the surface owner an opportunity at the surface owner's cost to extend distribution voltage to within 1320 feet of the proposed well pad. It is understood that gas powered artificial lift equipment may be used prior to the time that power is brought to the site. The operator shall request that the power lines be placed underground except in areas where the topography or subsurface conditions render it infeasible or in situations in which the landowner requests overhead lines.
- (2) Greenhouse Gas Reduction: The operator shall use reasonable efforts to minimize methane emissions by using "green completion" techniques, and the installation of "low bleed" pneumatic instrumentation, when feasible.
- (3) Emission Control Equipment: The operator shall comply with existing EPA rules and any future regulations validly adopted by an authority
- (4) Air contaminant emissions shall be in compliance with the permit and control provisions of the Colorado Air Quality Control Program, Title 25, Section 7, C.R.S.
- (5) Stormwater: The operator shall submit a stormwater management plan and comply with State Standards.

J. Surface Disturbance Standards

Purpose: The purpose of this section is to minimize damage to surface activities and surface conditions.

- (1) Agricultural and Recreational Resources: Subject to COGCC spacing requirements for wells, minor and major facilities shall be located so as to reasonably minimize surface use necessary for the operation of the facility and to avoid the unreasonable loss of agricultural land or recreational land. This standard may be waived if verified written consent is obtained from the surface owner.

(2) Roads and Access:

- (a)** Installation of major facilities which are accessible by non-maintained roads included in the county road system, which the county engineer determines are inadequate to safely accommodate the additional traffic associated with the operation of the facility, shall be permitted only if such roads are improved and maintained by the operator to a level which the county engineer determines is necessary to allow such traffic to use such roads in accordance with applicable state and county standards.
- (b)** With the exception of such circumstances and other operational requirements or limitations imposed by existing contractual agreements or government regulations (e.g.CDOT access permits), with the installation of each well the operator shall use existing roads, easements, and pipeline routes.
- (c)** Use of Subdivision Roads. In those instances where an Operator accesses a Minor or Major Facility through a road or roads within a County-approved subdivision and a governing entity exists (e.g. homeowners' association) with legal authority to bind the entity and its members, and with the authority to grant access rights over such roads and/or negotiate agreements with respect to their use, the operator will use reasonable efforts to negotiate a fair and reasonable road maintenance or road improvement agreement with such entity for the purpose of paying or making in-kind contributions for its pro rata share of the cost of maintaining or improving the affected road(s). Such agreement or a memorandum thereof shall be recorded with the Clerk and Recorder.
- (d)** Access Roads. Access Roads serving Minor and Major Facilities, including existing and/or proposed roads that connect such a Facility to a county road or state highway shall be reviewed in accordance with Section 15 of the Ouray County Land Use Code and shall be subject to all applicable impact fees. All access and oversize or overweight vehicle permits must be obtained from Ouray County Road & Bridge Department prior to beginning construction or use of a County road. All proposed transportation routes to the site should also be reviewed and approved to minimize traffic hazards and adverse impacts on County roadways. Existing roads shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts are determined to require new or additional roads or unless the applicant demonstrates to the County's satisfaction that it has been unable to obtain authorization to use an existing road. In the discretion of Ouray County, the Applicant may be required to post a bond for the specific purpose of addressing damage to existing Ouray County roads utilized by the Applicant to access its operation.

(21.8J2)

- (e) Private Access Roads. For those Access Roads located between the parcel on which a Minor or Major Facility is proposed and the county road or state highway serving such a Facility, the applicant shall provide written documentation as part of the application demonstrating that it has the legal right to use such road(s) for the purpose of accessing the Facility and the applicant shall demonstrate that such road(s) can provide adequate physical access to such Facility in accordance with applicable Land Use Code standards.
- (f) State Highway Access. If access is directly off of a State Highway, the applicant must have an approved State Highway Access Permit for the proposed facility.
- (g) Use of Equipment. The operator shall:
 - (i) Remove or require the removal of chains from its heavy equipment before entering onto a County road;
 - (ii) Ensure that all new roads and well pads are graveled with a minimum of four inches (4”) of Class 6 Aggregate Base Course as defined by the Colorado Department of Transportation Standard Specifications for Road and Bridge construction over a stabilized base, both of which shall be maintained throughout permanent operations of the well pad; and
 - (iii) Remove and restore the condition of the road as promptly as is reasonable under the circumstances if mud and/or debris are tracked onto the County road by the operator’s equipment.

K. Produced Water Hauling.

- (1) Except during drilling, completion and well servicing operations, the operator shall use reasonable efforts to transport produced water by pipeline. Produced water shall be disposed of according to appropriate regulatory agency requirements or in accordance with standards set forth in the BLM “Gold Book”.
- (2) Pipelines and Flowlines. Pipelines and flowlines should be constructed in conformance with the guidelines contained in the BLM “Gold Book” and applicable COGCC “pipeline” regulations.

(21.8K)

- (3) Reserve Pits. To prevent contamination of ground water and soils or to conserve water, all reserve pits shall be lined with an impermeable liner. An impermeable liner has a permeability of less than 10^{-7} cm/sec. The liner must be installed so that it will not leak and will be compatible with all substances placed in the pit. Fencing of reserve pits is required to prevent access by persons, wildlife or livestock. Netting or alternative method of covering pits acceptable to the County shall be required in order to prevent access and mortality of birds and other animals. Refer to Chapter on "Construction and Maintenance" of the current BLM "Gold Book" for more detailed specifications for the methods of lining, fencing and netting of pits.

L. Waste Disposal:

- (1) When a minor or major facility becomes operational, all construction-related debris shall be removed from the site. The site shall be maintained free of debris and excess materials at all times during operation.
- (2) No burning of trash shall occur on the site.

M. Weed Control:

The Applicant shall be responsible for ongoing weed control for all Minor and Major Facilities and the access roads under applicant's control leading to such Facilities. The appropriate weed control methods and species to be controlled shall be determined through review and recommendation of the Natural Resource Conservation Service (NRCS), the CSU Extension Service and the Ouray County Weed Manager, in accordance with Colorado Noxious Weed Act and any applicable Resolution of the Board of County Commissioners of Ouray County, Colorado for the management and eradication of noxious weeds in Ouray County.

N. Reclamation.

- (1) Interim 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 equivalent to adjacent undisturbed areas. The County 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 Ouray County Land Use Code regulations and shall be done in accordance with the Bureau of Land Management "Gold Book" chapter entitled "Reclamation and Abandonment". In addition, each operator is encouraged to consult with the responsible official or governing body of an owner's association or common interest community in which the facility may be

located with respect to any weed control, reclamation or mitigation plan that it may have adopted.

(21.8N)

- (2) **Road Design and Construction.** Roads should be designed and constructed to allow for successful interim and eventual final reclamation. Revegetation of roads ditches and cut and fill slopes will help stabilize exposed soils and reduce sediment loss, reduce the growth of noxious weeds, reduce maintenance costs, maintain scenic quality and forage, and protect habitat. To ensure successful growth of plants and forbs, topsoil must be salvaged where available during road construction and respread to the greatest degree practical on cut slopes, fill slopes, and borrow ditches prior to seeding. To ensure stability of freshly topsoiled slopes during revegetation, the application of mulch or other sediment control may be appropriate.

The appropriateness of primitive roads or routes is site/use-specific and is typically based on many factors, such as anticipated dry or frozen soil conditions, seasonal weather conditions, flat terrain, low anticipated traffic, or driller's or operator's access needs. Operators should not flat-blade roads. Drainage must be maintained, where appropriate, to avoid erosion or the creation of a muddy, braided road. Resource damage must be repaired as soon as possible and the operator will consult with the County and private surface owner(s) to determine if all or a portion of the road needs to be upgraded to an all-weather access road.

O. Minimization of Disturbance:

- (1) Where minor and major facilities reduce or destroy existing vegetation, the applicant in consultation with the NRCS shall develop a revegetation plan for the facility site, for approval by the County Weed Manager. The plan shall specify species, planting schedule, planting method, quantity of seed or plant material to be used, and other related activities. The applicant may, in consultation with the NRCS, develop a standard revegetation format for all sites within the county, for submittal with minor and major facility applications. In no case shall the County Weed Manager require measures more stringent than those recommended by the NRCS.
- (2) Upon abandonment of the minor facility site, as defined by the COGCC, reclamation shall be conducted in accordance with COGCC regulations.

(21.8)

P. Emergency Preparedness Plan Required

- (1)** Each operator with facilities in the county is required to provide an emergency preparedness plan. No applications for a minor or major 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:

 - (a)** Name, address and phone number, including a twenty-four (24) hour emergency number of at least two (2) persons responsible for emergency field operations.
 - (b)** An as-built facilities map showing the name, location and description of all minor and major 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 equals two thousand feet (1" = 2,000')), or digitally on the county geographic information system parcel maps. The as-built facilities map that 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).
 - (c)** 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.
 - (d)** Project specific emergency preparedness plans are required for any project (minor or major) 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.

(21.8P)

- (2) 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 or in case of emergency. Any site under an approved Major or Minor Permit may be inspected by Ouray County at any time, to ensure compliance with the requirements of the approved development plan, provided that at least one hour's prior notice is given to the contact person at the telephone number supplied by the applicant. Persons performing such field inspections for the County shall be deemed licensees for liability purposes pursuant to C.R.S. Section 13-21-115. 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 Major or Minor Facility Permit, the applicant grants its consent to such inspections.
- (3) Fire Prevention. Prior to commencement of operations each operator with facilities in Ouray County is required to provide a fire prevention response, and safety plan that has been approved by the local fire district or Ouray County Sheriff, as appropriate.

21.9 SPECIAL EXCEPTION REQUESTS:

A. Application for Exception.

The applicant may request special exceptions to this Section. All applications where a special exception is requested will be processed as a major facility. Requests for special exceptions for proposed facilities may include, but not be limited to, one or more of the following factors:

- (1) Topographic characteristics of the site;
- (2) Duration of use of the facility;
- (3) Proximity of the facility to occupied structures;
- (4) Ownership status of adjacent and/or affected land;
- (5) Construction of adequate infrastructure to serve the project; or
- (6) Planned replacement and/or upgrading of facility equipment.

(21.9)

B. If the Board of County Commissioners finds, based upon competent evidence in the record, that compliance with certain portions of this Section 21 is impossible, a special exception may be granted for a period of time not to exceed six (6) months. Upon completion of the six (6) month period, the application shall receive additional review by the County. The Board of County Commissioners, upon showing of good cause by the applicant, may:

- (1) Further extend the special exception;
- (2) Require that the facility be brought into compliance with the performance standards; or
- (3) Revoke the special exception approval.

C. Operational Conflicts Special Exception:

Special exceptions to this Section may be granted where the requirements of the section actually conflict in operation with the requirements of the Oil and Gas Conservation Act (“Act”) or implementing regulations. All applications where a special exception due to operational conflicts is requested shall be processed as a major facility and heard in a noticed public hearing by the Board of County Commissioners. The applicant shall have the burden of pleading and proving an actual, material, irreconcilable operational conflict between the requirements of this Section and those of the Act or the Colorado Oil and Gas Conservation Commission (“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 section shall result in operational conflicts with the state statutory and regulatory scheme, a special exception to this Section 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.

21.10 APPROVAL, LIMITATIONS, SECURITY AND REVOCATION:

A. General:

Issuance of a minor or major oil and gas facility permit shall authorize only the well(s) and related facilities for which it is issued. The permit shall run with the land.

B. Time Limitations:

Oil and gas wells shall be drilled within one (1) year of the date of approval. Failure to commence drilling within one (1) year shall cause the permit to expire, and the County shall require approval of a new permit.

C. Validity:

The permit shall be valid for as long as the applicant maintains the conditions of approval. If the Colorado Oil and Gas Conservation Commission do not approve the project, then the County's permit will be invalidated.

D. Non-compliance:

If the conditions of approval are not maintained, it shall be considered violation of these regulations and subject to the provisions related to revocation.

E. Performance Security:

To ensure compliance with the mitigation and other performance requirements of this Section and as imposed in connection with an approval of a minor or major facility, the applicant shall provide one form of the following security set forth in this Section and specific conditions of approval for all facilities: a minimum of five thousand (\$5,000) dollar performance bond for each minor facility or; a minimum of a thirty-thousand (\$30,000.00) dollar countywide blanket bond for all minor facilities operated by the applicant within the county; irrevocable letter of credit; or equivalent financial security acceptable to the County. These are minimum amounts, which can be increased if deemed necessary by the County. The Board of County Commissioners shall set and impose, as a part of the approval for all major facilities, the performance security amounts and forms. The bonds shall remain in effect for one (1) year for all requirements except revegetation and landscaping, which shall be two (2) years. 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 the Colorado Oil and Gas Conservation Commission's jurisdiction, are exempted from this performance security coverage. In addition to the performance security described above, if the Minor or Major Facility will utilize Ouray County roads to access the facility, a road mitigation bond may be required to ensure that any damages to Ouray County roads will be repaired by the Operator causing such damage. Any such road mitigation bond will be determined on an application-by-application basis,

depending upon the roads utilized, miles traveled, type of Facility to be operated and the traffic generated thereby. For a Minor Facility, the road mitigation bond shall be determined by the Land Use Administrator, subject to the appeals process described in Section 21.7.B (5) above. For Major Facility, the road mitigation bond shall be set by the Board of County Commissioners as part of the approval of the Major Facility.

21.11 AMENDMENTS:

- A.** Where a minor or major facility has been approved and the applicant desires to modify the subject facility by changes to equipment, site layout, approved operating plan, etc., an amendment to the original application shall be required if the level of impact will be increased as a result of the modification. The activity described in the amendment to a minor or major facility will be granted administrative approval if it complies with the standards herein. (In cases where the amendment would consist of the addition of a major facility, review shall be required as for a new major facility.
- B.** The Land Use Department may approve minor amendments to an approved oil and gas facility. Authorized minor amendments include those that do not alter the basic intent and character of the approved permit, are consistent with the performance standards herein, are deemed necessary in light of technical and engineering considerations first discovered during actual construction, or could not have been reasonably anticipated during the initial review process.
- C.** Minor amendments must comply with all relevant Ouray County regulations. Minor amendments may include, but are not limited to, variations in the location of the well pad which do not decrease the approved setback to residential or commercial structures, minor changes to equipment which do not increase the cumulative horsepower rating to greater than fifty (50) bhp, deviations to the location of access roads which are wholly contained on site and are approved by the owner of the surface rights, and modifications to the visual mitigation plan which do not adversely impact adjoining property owners or the general public.
- D.** Modifications which the applicant determines in good faith are required in order for the facility to continue operating and must be done immediately in order to maintain the existing level of production, may be done on an emergency basis, without prior notice to or approval by the Land Use Department, provided that such modifications do not include the addition of equipment or operation of the facility which would exceed those defined in Section 21.4 and 21.5. The applicant shall provide the Land Use Department with notification of emergency modifications by filing a written amendment to the application, specifying the modifications made, within two (2) working days of their completion.

21.12 PENALTIES AND ENFORCEMENT:

- A.** Civil Action: In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this Section; or an Applicant fails to comply with any other provisions of this Section or the Ouray County Land Use Code or fails to comply with any conditions placed upon any approval of a Facility, the County Attorney, or where the Board of County Commissioners deems it appropriate, the district attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use. In the event that enforcement action is required to be taken under the provisions of this Section, Ouray County shall be entitled to collect its reasonable attorneys fees and costs incurred in any such action from the Operator
- B.** 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 the Land Use Department shall be provided with an opportunity to be heard at the public meeting prior to the Board of County Commissioners' rendering its decision.
- C.** Liability Insurance: For any facility permitted under this Section, the applicant shall submit a certificate of insurance to the Land Use 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 five-hundred thousand (\$500,000.00) dollars per occurrence and one million (\$1,000,000.00) dollars per occurrence in high density areas as defined by the COGCC in its Safety Regulations, 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. A company authorized to do business in the state, unless the applicant is self-insured, shall write the policy. Any such policy shall include Ouray County as a "certificate holder" so that the County may receive advance notice of cancellation and the certificate shall require at least thirty (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 the Land Use Department. 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.
- D.** Right to Enter: For the purpose of implementing and enforcing this Section, County personnel may enter onto subject property upon notification of the permittee, lessee or other party holding a legal interest in the property; if such

entry is denied, the County shall have the right to obtain an order from a court of competent jurisdiction to obtain entry.

21.13 DEFINITIONS:

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

ACCESS ROAD. A road located on private property between the site on which a Minor or Major Facility is located and the county road or state highway serving such a Facility constructed in accordance with applicable Land Use Code standards.

AGRICULTURAL. Currently in use for farm or ranch purposes, including pasture.

APPLICANT. The 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. 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).

COGCC. Colorado Oil and Gas Conservation Commission.

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

COMPRESSOR STATION. An installation consisting of one or more individual compressors, located on a gathering or transmission line, or both.

CONTAMINATED SOIL. Soils impacted by production operations in a way that adversely affects their ability to support normal uses or could adversely affect water quality in the future.

CROPLAND. Any land that is used to produce plant or animal products in a raw or unprocessed state and/or any property that is used for grazing livestock.

CORRIDOR. The route within which a pipeline right-of-way is located.

DESIGNATED AGENT. An agent designated by the owner or lessee, as defined by the Colorado Oil & gas Conservation Commission.

EASEMENT. Authorization by a property owner for the use of a designated portion of his or her property by another, for a specified purpose.

EVAPORATION PIT. A lined excavated pit used for storing and evaporating wastewater produced in degasification activities, during drilling or production, or both.

FACILITY. Means either a Minor Facility or Major Facility as defined in Section 21.4 and 21.5.

FLOW LINE. Shall mean those segments of pipe from the wellhead downstream through the production facilities ending at:

In the case of gas lines, the gas metering equipment; or

In the case of oil lines, the oil loading point or LACT unit; or

In the case of waterlines, the water loading point, the point of discharge to a pit, or the injection wellhead.

GAS WELL. 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. All Pipelines from the meter at the end of the flow line to the compressor station. 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 United States Department of Transportation and/or COGCC regulations.

GEOPHYSICAL OPERATION. See Seismic Exploration/Operation.

GOLD BOOK. Shall mean the “Surface Operating Standards for Oil and Gas Exploration and Development” prepared by the United States Department of the Interior Bureau Of Land Management and the United States Department of Agriculture Forest Service, Fourth Edition or most current edition.

MINERAL ESTATE. Mineral interest in real property that is shown by the real estate records of the county in which the real property is situated and that is not owned as part of the full fee title to the real property.

NON-CROPLAND. Any land that is not cropland.

OPERATING PLAN. 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. 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.

PAD AREA. Shall mean the areas, which are directly disturbed during the drilling and subsequent operation of, or affected by production facilities directly associated with, any oil well, gas well, or injection well, excluding the access road.

PAD SIZE. Pad size shall be measured from edge of disturbance.

PIT. Shall mean the any natural or man-made depression in the ground used for oil or gas exploration or production purposes. Pit does not include steel, fiberglass, concrete or other similar vessels, which do not release their contents to surrounding soils.

POLLUTION. 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 or native flora.

PRODUCING (IN PRODUCTION). 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.

RECOMPLETION. The operator reenters a well to complete or deepen the well to a new formation from that in which a well has previously been completed.

RECREATIONAL LAND(S). Shall mean those lands that are used for the purpose of public or private outdoor recreational activities. Recreational activities may be active or passive and may include but shall not be limited to; sports fields, playgrounds, public parks, camping sites, horse back riding, cross-county skiing, snowshoeing, hunting and fishing.

RESERVE PIT. Shall mean those pits used to store drilling fluids for use in drilling operations or to contain exploration and production waste generated during drilling operations.

RESIDENTIAL AREA. Having an existing residence or platted subdivision lot located within a one-quarter mile radius of a facility site.

RIGHT OF WAY. 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.

SEISMIC EXPLORATION/OPERATION. Shall mean all activities associated with acquisition of seismic data including but not limited to surveying, shothole drilling, recording, shothole plugging and reclamation.

SPACING. Acreage dedicated to each well producing from the same formation. Spacing regulations are established by the Colorado Oil & Gas Conservation Commission.

SPLIT ESTATE. Land in which the ownership of the surface estate is held by an individual(s) and the ownership of mineral estate is owned by a separate individual(s).

STORM WATER MANAGEMENT PLAN. Means the detailed analysis that describes how the proposed stormwater management system for a development has been planned, designed and will be constructed to meet applicable County requirements and Colorado Department of Health and Environment requirements.

SURFACE ESTATE. An interest in real property that is less than full fee title and that does not include mineral rights as shown by the real estate records of the county in which the real property is situated.

TRANSMISSION LINES. 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.

WELL. Shall mean an oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

WORKOVERS. The operator commences operations on a producing well to restore or increase production from formations that have been producing in the well bore.

All other words used in this Section 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 or the BLM "Gold Book".