

5-3.6. Use By Special Review – Oil and Gas Facilities

A. INTENT AND APPLICABILITY

- 1.** The intent of this Section 5-3.6 is to describe the Use by Special Review process and approval criteria for Oil and Gas Facilities. An Oil and Gas Facility or related site preparation or development, including any such Facility that requires a Colorado Oil and Gas Conservation Commission (“COGCC”) permit, may not be located or constructed within the unincorporated territory of Arapahoe County without first obtaining Use by Special Review approval, regardless of the zone district or category in which the operation will be located. Oil and Gas Facilities are allowed in all zone districts, including Planned Unit Developments, subject to Use by Special Review approval, subject to obtaining other required permits and approvals, and subject to compliance with the requirements for the facilities and operations thereof as set forth in this Land Development Code, unless and to the extent otherwise stated in the Land Development Code.
- 2.** The administrative Use by Special Review process available as provided under this Section of the Land Development Code shall apply only to an Oil and Gas Facility or Facilities as defined in Chapter 7-2 of this Land Development Code.
- 3.** Nothing in this Section of the Land Development Code is intended to waive or modify any applicable provision of the Arapahoe County Regulations Governing Areas and Activities of State Interest (1041 Regulations).

B. RELATIONSHIP TO SECTION 5-3.4

- 1.** This Section provides an Administrative Use by Special Review process for Oil and Gas Facilities where an applicant meets administrative approval criteria, as set forth in this Section 5-3.6. In the event that an applicant has met the requirements for an administrative approval and obtains approval for an Administrative Use by Special Review for a particular Oil and Gas Facility, separate approval under Section 5-3.4.B (Use by Special Review) of this Land Development Code is not required.
- 2.** In other situations, in order to obtain Use by Special Review approval, the applicant must comply with the provisions of Section 5-3.4 (Use by Special Review), except to the extent modified in 5- 3.6.D.7 of this Section or waived by the Public Works and Development Department (“PWD”) Director or the Board of County Commissioners (“Board”) in accordance with the authority provided in this Land Development Code.
- 3.** These regulations shall govern all applications for a permit to locate an oil and gas facility, including wells, well pads, compressor stations, access roads and other related infrastructure, within the unincorporated territory of Arapahoe County, under the administrative process. These regulations do not apply to pipelines, also known as gathering systems. Gathering systems are governed by the Use by Special Review process outlined in 5-3.4 and by the Arapahoe County 1041 Regulations.
- 4.** An application for a new oil and gas facility shall meet all standards identified in Section 5-3.6.C.

C. ADMINISTRATIVE APPROVAL CRITERIA

In order to obtain Administrative Use by Special Review approval, an Oil and Gas Facility shall first satisfy the following Administrative Review Criteria, except to the extent waived by the PWD Director or by the Board:

1. Satisfy Submittal Requirements: The application and exhibits for the Administrative Use by Special Review must satisfy all applicable submittal requirements in this Section 5-3.6 and in the Development Application Manual.
2. Compliance with Land Development Code Requirements: The Oil and Gas Facility as proposed complies with all siting and design requirements and standards specified in this Section 5-3.6.
3. Environmental/Public Health and Safety Impacts: The Oil and Gas Facility as proposed for approval shall not involve any site-specific conditions that present significant and material impacts to public health, safety or welfare, or the environment, that cannot be adequately mitigated through conditions imposed upon the Administrative Use by Special Review approval.
4. Emergency Service Providers: The Oil and Gas Facility applicant must provide a commitment to serve ("will serve") letter from the authority having jurisdiction for providing emergency services (fire protection and emergency medical services) for that facility, or if no authority has jurisdiction, provide proof of a contract for emergency services from an emergency services provider with the ability to provide such emergency services.
5. Facilities on Arapahoe County Owned Property: For facilities proposed on Arapahoe County owned property including open spaces, Operator shall provide an Alternative Location Analysis (ALA) meeting the requirements of Rule 304(b)(2)(B) as adopted by the Colorado Oil and Gas Conservation Commission in its Rules and Regulations.

D. ADMINISTRATIVE PROCESS

1. Application Process
 - a. Applications for an Administrative Use by Special Review for eligible Oil and Gas Facilities will follow the application process outlined in Section 5-2.1.B of the Land Development Code, Common Procedures for an Application.
 - b. County staff will refer the complete application for a fourteen (14) working day review by the various divisions of the PWD and the County Attorney's Office, as deemed appropriate. An application may require review by outside agencies such as Colorado Parks and Wildlife (CPW), any life-safety providers, adjacent jurisdictions, local public health department, the U. S. Army Corps of Engineers, and others as may be deemed appropriate.
 - c. The applicant shall provide a written response to all staff and referral agency comments.
 - d. Upon acceptance of the final copy of the complete application and exhibits by the PWD, the application materials will be forwarded for final review and approval by the PWD Director.
2. Neighborhood Meeting

Prior to submitting an application to Arapahoe County, Operator shall conduct a neighborhood meeting. Operator shall send notification of the meeting to the Planning Division, property owners, and homeowners' associations within one mile of the proposed facility. Notice of the meeting must be sent no less than 15 days prior to the scheduled meeting date. Operator will provide information concerning the development plans for the specific facility, including the timing and phasing of construction, drilling and completion, the planned access route and summarize the mitigations planned to address noise, light, traffic and visual impacts. Operator shall provide a summary of the

neighborhood meeting and the list of attendees from the sign-in sheet(s) as part of the land development application.

3. Application Notice Requirements

- a.** The applicant shall provide written notification by U.S. Mail to all landowners of record and all homeowners' associations within one mile of the Oil and Gas Facility that an application for an Administrative Use by Special Review for an Oil and Gas Facility will be filed with the County. The Notice of Application shall meet the format prescribed by the County and shall be mailed no more than 30 days before the time of filing the application with the County. The property owners of record, as identified in the County Assessor's property records, shall provide the basis for notifications. The Planning Division will provide the applicant with the names and addresses of the homeowners associations.
- b.** The applicant shall also provide a sign listing: the case number and type of case (Oil and Gas Facility), the phone number of the Planning Division and the distance from the sign to the facility, that shall meet the format prescribed by the County. The sign shall be posted for a period of at least fourteen (14) days, off the shoulder and adjacent to a County road, outside of the right-of-way, near the intersection of the County road and the proposed facility's access road, at or before the time of filing the application for the Oil and Gas Facility with the County. The applicant shall post the sign within five (5) days of submitting a complete application with Arapahoe County.

4. Application Submittal Requirements Found in the Development Application Manual (DAM)

Applications for an administrative Use by Special Review or for a Use by Special Review for an Oil and Gas Facility shall comply with the submittal requirements set forth in the Development Application Manual.

5. Waiver Requests

Operator can apply for a waiver of the following permit requirements: setbacks, neighborhood meetings, regular meetings, termination date of approval, burying of temporary water lines at driveway and gravel road intersections, visual mitigations, noise mitigations and lighting mitigations. A waiver request shall be made in writing and will be evaluated on the merit of the individual request, and must be justified by specific conditions of the location and a showing that granting the waiver will not be detrimental to public health and safety. Operator may appeal a waiver decision by Director of Public Works and Development to the Board of County Commissioners at a public meeting (see section 8, below).

6. Standards Required for Oil and Gas Facilities

a. Regular Meetings

The operator shall meet with the County, at least annually, to monitor and discuss pertinent issues associated with Operator's planned or existing facilities, within the County. Operator and County will discuss, at a minimum, Operator's updated development plans, required reporting and recordkeeping, updates to the field-wide Emergency Response Plan (ERP), the facility-specific Emergency Action Plans (EAP) and Tactical Response Plans (TRP), any health and safety issues and potential

implementation of new technology. An annual meeting may be conducted as a field visit to Operator's facilities.

b. Setbacks

All pad boundaries shall be located:

- i. At least 1,000 feet from any occupied structure.
- ii. At least 1,000 feet from the nearest boundary of a platted lot smaller than 15 acres in area.
- iii. At least 250 feet from any property line.
- iv. At least 350 feet from buried infrastructure, other than its own infrastructure or infrastructure serving oil and gas development (e.g. gathering systems).

c. Health and Safety Requirements

- i. Operator must have approval of the initial facility-specific Emergency Action Plan (EAP) and Tactical Response Plan (TRP) before commencing construction. After the pad and access road have been constructed and ArcGIS Shape files are available for the well pad and access road, Operator shall provide a detailed EAP and TRP for review and approval by the County Office of Emergency Management (OEM) and the fire district having jurisdiction at the facility, before drilling commences. The EAP and TRP must be reviewed and approved by the Office of Emergency Management and the fire district having jurisdiction over the facility. The EAP and TRP shall follow the templates provided by OEM.
- ii. The EAP and TRP shall be updated on a regular basis, when any conditions change, to include but are not limited to, the addition or subtraction of chemicals used or stored on site.
- iii. Operator shall coordinate with the fire district having jurisdiction at the facility in establishing evacuation routes in the event of an emergency at the facility. Evacuation route considerations will include any occupied structures, platted lots, critical infrastructure, public facilities, or schools that are within proximity to the oil and gas facility, based on guidance from the fire district and the Office of Emergency Management.
- iv. Operator shall provide current 24-hour contact information for Operator and for its contractors and subcontractors working at the Facility.
- v. Operator shall maintain a Hazardous Materials Inventory Statement for all hazardous materials on site at the facility and shall provide the Statement to the fire district having jurisdiction at the facility and OEM on an annual basis.
- vi. Operator shall provide OEM and the fire district having jurisdiction at the facility with a list of all chemicals used or stored on each site. The list of chemicals will be updated when new chemicals are added or removed and provided to OEM at least bi-annually.
- vii. Operator shall provide access to fire district and County staff for inspections of facilities to determine compliance with applicable provisions of all fire codes and standards adopted by the fire district having jurisdiction at the facility.
- viii. Operator shall mark all wells and all well pads with signage in a conspicuous place, from the time of initial drilling until final abandonment. Operator shall maintain signs in a legible condition and shall replace damaged or vandalized signs within fourteen (14) days. Such signs shall be at locations sufficient to advise emergency crews where drilling or recompletion is taking place.

- ix. Operator shall comply with the all applicable fire codes and standards of the fire district having jurisdiction over the facility.
- x. Operator shall provide maps of all off-pad flowlines to the County Public Works and Development Department.
- xi. Operator shall repair any damages to County infrastructure or property caused by Operator's activities or omissions, including any emergencies that occur, at the facility.
- d. Training**
 - i. Operator shall conduct coordinated training exercises with OEM and the fire district having jurisdiction at the facility for each well pad, after the well pad is constructed and before drilling commences and annually thereafter.
 - ii. Operator and its contractors shall provide certificates of completion of appropriate National Incident Management System (NIMS) training at least one month prior to the start of drilling. All of Operator's staff and field consultants and its contractor's field staff are required to complete the NIMS IS-100.C and the NIMS IS-700.B training. Operator's and its contractor's supervisors and managers are also required to provide certificates of completion for IS-200 and IS-800 training. Any additional specific training requirements will be determined by OEM.
- e. Fire Prevention and Procedures**
 - i. Operator shall store a quantity of water on or near the site in the amount deemed necessary by the fire district. Operator shall store a firefighting foam, approved by the fire district, and equipment for application at a location approved by the fire district.
 - ii. No open burning shall occur on the site of any oil and gas operation except flaring.
- f. Incident Reporting**
 - i. All emergencies shall be reported to 911 immediately upon discovery, as well as to OEM, the fire district having jurisdiction at the facility, and the County Local Government Designee (LGD). Formal incident reports are required for, but not limited to, the following incidents spills, releases, fires, explosions, lightning strikes, accidents, fatalities, injuries, chemical exposures and any events requiring medical attention on any of the Operator's facilities, including pipelines. Formal written incident reports shall be submitted to the Office of Emergency Management, the fire district having jurisdiction at the facility, and the County LGD within three (3) calendar days of the incident. When in doubt as to whether the incident is reportable, the Operator will contact the County LGD.
 - ii. Operator shall provide copies of any initial and final spill report filed with the COGCC to the County LGD, OEM, and the fire district having jurisdiction at the facility, as well as any remediation reports within three calendar (3) days of filing with the COGCC. Those copies should be filed electronically, if electronic filing is available.
- g. Spill and Release Reporting**
 - i. Operator shall provide a copy of the Spill Prevention, Control and Countermeasures (SPCC) Plan for each facility to the fire district having

jurisdiction at the facility, and to OEM prior to the start of production, as well as a listing of hazardous chemicals used on site if required by the Emergency Planning and Community Right-to-Know Act and its related regulations. If the planned onsite equipment that holds liquids or the capacities change Operator shall provide an update to the SPCC Plan to the Public Works and Development Department.

- ii. Operator shall make available at each well pad, or require to be carried by field staff or contractors, spill response kits capable of mitigating small to mid-size spills (5 to 50 gallons).
 - iii. In addition to the incident reports required under subsection (f)(1) above, all flammable liquid spills greater than or equal to 5 gallons shall be reported to the fire district having jurisdiction at the facility immediately. Spill containment and treatment does not relieve Operator of spill reporting for any spilled material under these or other federal, state or local regulations.
 - iv. Open-ended discharge valves on all storage tanks, pipelines and other containers within any well pad shall be secured and shall not be accessible to the public. Open-ended discharge valves within any well pad shall be placed within the interior of the secondary containment area.
 - v. Operator will install automated safety systems on all new facilities. Each system shall include a Surface Safety Valve (“SSV”) or wellhead master control valve, installed before the commencement of the production phase and connected to the production tubing at the surface. The SSV or wellhead master control valve shall be capable of remotely shutting the well in should the upset conditions be detected. The SSV will have documented, quarterly testing to ensure functionality per manufacturer’s specifications. The quarterly results records shall be stored onsite and made available upon request by the County.
- h. Lightning Protection**
- i. Operator shall provide lightning protection at the time of construction for every well pad with storage tanks installed after adoption of these rules.
 - ii. After a well pad has been in operation, the addition of new wells or tanks to that pad will require the installation of additional lightning protection.
 - iii. All equipment shall be designed and operated in a manner to prevent accumulation of static charge in accordance with API RP 545, “Recommended Practice for Lightning Protection of Aboveground Storage Tanks for Flammable or Combustible Liquids”, first edition.
 - iv. If damage is sustained to any portion of a facility due to a lightning strike, the entire facility shall be shut in immediately and inspected by the operator.
 - v. As new technology becomes available for lightning mitigation, Operator is required to incorporate or install such new technology at all of Operator’s pads, within two (2) years of the introduction of new technology on the commercial market. This requirement may be modified or waived by the Director of Public Works and Development in accordance with Section 5 above.
- i. Other Operational Requirements**
- i. Operator shall operate and maintain all equipment pursuant to manufacturer specifications consistent with technological limitations and reasonable and customary maintenance practices.

- ii. Noise emitted from the facility pad shall not exceed 65 db, measured at the property line at the nearest occupied structure. This noise limit applies to all noise, including to the noise associated with surges during 15-minute intervals.
- iii. The surface of a pad shall be paved with either crushed granite or gravel, in a sufficient amount to reduce the amount of mud-tracking offsite.
- iv. Operator shall comply with all applicable requirements of the Arapahoe County Grading Erosion and Sediment Control Manual and shall remove any mud or other sediment tracked onto County roads immediately.
- j. Noise Mitigation Requirements**
 - i. Operator shall conduct an ambient noise survey as provided in the Development Application Manual for each proposed well pad or compressor station no later than 60 days prior to application in order to establish baseline noise levels for the site, and Operator shall also conduct noise modeling as provided in the Development Application Manual for the well pad or compressor station to simulate noise during drilling and completion or from operation of compressors.
 - ii. The noise survey and noise modeling shall be used to create a Noise Mitigation Plan for the site. Operator shall update the Noise Mitigation Plan as provided in the Development Application Manual for any changes in equipment that may reasonably be expected to affect the ambient noise levels at the site or if the Facility is not constructed within two (2) years of the date of the County's administrative Use by Special Review or Use by Special Review approval for the Facility.
 - iii. If a noise model predicts that noise levels for either or both A-Scale and C-Scale noise for drilling and completion or for operation of a compressor station will exceed County noise levels, as specified in i.2. above, at the property line of any occupied structure within 2,000 feet of the pad, noise mitigation measures will be required.
 - iv. If noise modelling indicates that unmitigated drilling or completion activity on a well pad will exceed the County noise levels, as specified in i.2. above, notwithstanding other mitigations that may be proposed in the Noise Mitigation Plan, sound walls shall be constructed for both drilling and completion.
 - v. The Noise Mitigation Plan shall address noise/vibration through berming, sound walls and other practices. If sound walls will be required for mitigation of noise during completion, they shall be erected prior to drilling.
 - vi. Additional mitigations must be described and used by the Operator if C-scale noise levels are increased to the larger of either (i) 5db over ambient or (ii) 65db at the property line of the property upon which the nearest occupied building exists. The County may require larger setbacks and/or berms on a case-by-case basis for mitigation of C scale noise, based on data from the noise model. Upon which the nearest occupied structure exists.
 - vii. Operator shall follow the most recent and most appropriate BMPs or best-available technology to reduce noise related to drilling and completion or from the operation of compressor stations.
 - viii. Operator is encouraged to use electric drilling equipment when electric equipment is available and where electric power is accessible, in place of

equipment fueled by diesel or natural gas for both noise mitigation and protection of wildlife migration routes.

- ix. Operator shall install mufflers, covers or insulation on diesel engines or equipment. If noise modelling indicates that a compressor or a combination of compressors at a compressor station will exceed County noise limits, an insulated building shall be constructed around the compressor(s).
 - x. Tubular goods may not be unloaded from 8 PM to 7 AM.
 - xi. Engine idling shall be minimized.
 - xii. Heavy trucks driving to and from the pad are prohibited between the hours of 9 PM and 7 AM. Deliveries to the pad shall be prohibited during the hours of 9 PM and 7 AM, except when unavoidable, such as for delivery of a rig.
- k. 24-Hour Contact Number for Noise Complaints**
Operator shall provide a 24-hour contact number for noise complaints on the facility sign required in section c.8.
- l. Noise Mitigation Requirements in High Ambient Background Noise Areas**
If the ambient background noise exceeds County noise limits, the Director of Public Works and Development may modify noise mitigation requirements to allow for noise levels at no more than the level of the existing ambient background noise.
- m. Odor Mitigation**
- i. Operator shall prevent odors migrating offsite during drilling through the use of low-odor drilling muds or neutralizers.
 - ii. Operator shall use closed-loop systems in place of open pits.
 - iii. Operator shall proactively respond to and address odor complaints.
 - iv. Operator may be required to address odor complaints with additional measures.
- n. Site Lighting**
- i. All site lighting shall be directed downward and inward to prevent light spill outside the pad.
 - ii. Wherever possible, lights will be mounted on the inside of the sound wall.
 - iii. Any lights not concealed by a sound wall must be IESNA (Illuminating Engineering Society of North America) full cutoff or shielded/screened in some manner to reduce the amount of light leaving the pad.
 - iv. After consultation with the Planning Division, Operator may be required to address lighting complaints with additional measures.
- o. Visual Mitigation**
- i. Well pads or compressor stations within 1,320 feet of a property line of an occupied structure, a platted lot, or a parcel of 40 acres or smaller, shall be designed with some form of visual mitigation, to include but not be limited to, opaque fencing, berming, landscaping and/or low-profile production equipment.
 - ii. Landscaping or fencing) around the perimeter of the pad shall be installed within three (3) months of the first well's completion or the installation of equipment at a compressor station to minimize visual impacts from adjacent properties and the nearest streets.

- iii. Production pads and compressor stations shall be maintained free of vegetation, rubbish and debris.
 - iv. Storage of equipment not associated with a specific pad or compressor station is prohibited on that pad.
 - v. Operator shall follow COGCC's rules for equipment paint colors.
 - vi. Privacy fencing shall be at least 8 feet high and painted or stained with natural wood colors.
 - vii. Whenever possible, Operator shall use existing natural contours and existing vegetation to conceal the site from view.
 - viii. Whenever possible, such as through installation of pipelines, Operator shall minimize the size and number of tanks and equipment installed or maintained on a production pad
- p. Security Fencing**
- i. Perimeter fencing shall be secured when Operator's personnel or contractors are not present on the well pad or compressor station
 - ii. Operator shall provide approved emergency access hardware for any location gates or access points.
 - iii. Security fencing shall be at least 8' high. Fencing is not also serving as security fencing, security fencing shall be least at 8 feet high, with a paint color or powder coat to blend with the ground surface.
- q. Traffic Mitigation and Reduction Measures**
- i. Operator shall restrict its traffic during peak commuting hours and during school bus hours.
 - ii. Operator shall use pipelines for the transport of produced water and crude oil from the well pad, wherever available.
 - iii. To reduce traffic associated with Operator's drilling and completion activities, Operator shall use temporary surface water lines or Modular Large Volume Tanks (MLVTs) for transportation or storage of water needed during drilling and completion. Operator may use County Road Right-of-Way, and County drainage culverts, where practical, for the laying and operation of temporary water lines on the surface, provided that the County's Engineering Services Division approves the locations of the temporary water lines. An access or street-cut permit issued in accordance with the Arapahoe County Infrastructure Design and Construction Standards is required to place temporary water lines in County right-of-way. Operator will bury temporary water lines at existing driveway and gravel road crossings, unless waived by the Director of Public Works in accordance with Section 5 above.
- r. Wildlife, Wetlands, Riparian Areas and Stream Measures**
- i. Operator shall implement the recommendations of Colorado Parks & Wildlife (CPW), unless waived in part by the Director of Public Works and Development in accordance with Section 5 above.
 - ii. Wetlands boundaries shall be determined by a Professional Wetland Scientist (PWS) and those boundaries shall be indicated on the Administrative USR plans.
 - iii. No Oil and gas Facility or any portion thereof will be allowed within 300 feet of any wetlands boundary or riparian area.
 - iv. All crossings of defined stream bed and banks by flowlines and pipelines must be bored underneath and not trenched.

- v. Operators are prohibited from installing pads in riparian areas. If riparian areas are or would be potentially impacted by a nearby pad, either permanently or temporarily, then Operator shall develop measures to study wildlife movement along the riparian corridor and to maintain such wildlife movement along the corridor. Such measures will be presented to the County Planning Division and CPW for review. Those measures could include, but are not limited to, wildlife cameras, speed limits and seasonal limitations to allow windows for nesting and breeding.
- vi. All crossings of riparian areas by flowlines and pipelines shall be bored under, starting 300 feet from the edge of the riparian area. All crossings of riparian areas by access roads will be constructed with culverts, approved by Engineering Services Division.
- vii. Fencing that bisects streams is prohibited.
- s. Floodplain/Floodways Restrictions**
 - i. Storage of hazardous or floatable materials in the floodplain is prohibited.
 - ii. Aboveground oil and gas facilities are prohibited in floodways. Aboveground oil and gas facilities will be located outside a floodplain unless there is no way to avoid the floodplain, no other sites can be reasonably used, or if reasonably necessary to avoid significant adverse impacts to public health, safety, welfare or the environment. Nevertheless, no development may occur within a floodplain except in accordance with a floodplain permit issued by the Arapahoe County Floodplain Administrator in accordance with Section 5-4.3 of the Land Development Code.
- t. Notification of Commencement of Geophysical Exploration/Seismic Testing, Construction, Drilling, Completion, and Flaring**
 - i. Operator shall provide written notice to the Planning Division via email of the projected commencement of geophysical exploration/seismic testing (thumping), the construction phase, drilling phase, completion phase of each new well and each workover one week prior to the start of each phase.
 - ii. Flaring shall be reported to the County prior to flaring whenever possible, or during the flaring event. An updated notice will only be required if the commencement of any phase is delayed more than one week from the original date indicated in the notice.
- u. Secondary Containment for Onsite Storage Tanks**
 - i. Secondary containment around above ground produced water and crude oil storage tanks shall be constructed of steel berms with synthetic liners, of sufficient capacity to hold 1.5 times the volume of the largest tank, or earthen berms constructed of compacted soil and armored with cobbles.
 - ii. Secondary containment shall be inspected weekly by the operator or their representatives for evidence of discharge and within 48 hours of a precipitation event. Water or snow that reduces the capacity of the secondary containment to less than 1.5 times the volume of the largest tank must be removed within 24 hours of inspection.
 - iii. Other storage tanks for liquid substances on well pads and at compressor stations, such as ethylene glycol or lubricants, shall also have secondary containment. Those secondary containments shall be inspected weekly and within 48 hours of a precipitation event Water or snow that reduces the

- capacity of the secondary containment to less than 1.5 times the volume of the largest tank must be removed within 24 hours of inspection.
- iv. Inspection records for secondary containment shall be maintained for at least three (3) years and made available to the County, upon request.
 - v. Disposal of Drill Cuttings
 - i. Drill cuttings must be disposed offsite at a State-approved solid waste facility.
 - w. New Technologies
 - i. The County may require modifications to drilling, completion or production operations if new technologies for surface operations are technologically sound, economically practical and reasonably available to the operator. New technologies may be appropriate to reduce noise, odor, dust or the possibility of fire or damage from a lightning strike.
- 7. Approval/Denial/Conditions of Approval of Administrative Use By Special Review**
- a. Action to Approve, Conditionally Approve or Deny**

Unless there are any issues that have not been resolved by the applicant, the County will exercise its best efforts to process the Administrative Use by Special Review for an Oil and Gas Facility within 30 business days from the date of complete submittal by the applicant, or at such time as proof of any applicable State of Colorado permit approval is provided, whichever is later. The Administrative Use by Special Review can be administratively approved, approved with conditions or denied. Written notice of the decision shall promptly be provided to the applicant, and, if denied, the notice shall include a statement of the reason(s) for denial. The thirty (30) business day timeframe counts only as the County's processing time and does not include the applicant's response time.
 - b. Revocation of Approval**

Approval will be revoked, after notice of and a hearing before the Arapahoe County Board of County Commissioners, if Operator fails to meet or fails to continue to meet any requirements of this Land Development Code or Conditions of Approval.
 - c. Recordation**

Arapahoe County Public Works & Development shall record the approved permit and site plan in the Office of the Arapahoe County Clerk and Recorder within 30 days of approval. Operator shall pay any recordation fees.
 - d. PWD Director's Discretion to Refer to the Board**

In lieu of the PWD Director making a decision on an application, the Director has the discretion to refer any application for Administrative Use by Special Review or amendment thereto to the Board for its consideration and decision at a public hearing. In such event, the Board shall make its determination based upon the requirements of this Section; however, unless waived by the Board, compliance with the notice requirements set forth in Section 5-3.4.C.2. is required prior to the Board hearing. At such public hearing, the Board may approve, approve with conditions, or deny the application.
 - e. Expiration of Approval**
 - i. An approval of the Administrative Use by Special Review shall be valid for three (3) years after the date of recordation, unless the facility is already substantially commenced by either completion and production of at least one well on a well

- pad or installation of a compressor at a compressor station. Operator can apply for a waiver to the termination deadline by notification to the County in writing prior to the termination deadline. Waivers of termination deadlines will be approved or rejected on a case-by-case basis.
- ii. For good cause shown, the Planning Division Manager or designee may grant a time extension to the expiration date stated in this Section for up to one year, upon a written request by the applicant. If a letter requesting an extension for good cause is not received via U.S. mail or email before the expiration of the time extension, the exemption approval will lapse, and the exemption case may be closed by the County.
 - iii. If completion and production of one well on a pad or installation of a compressor at a compressor station is not commenced or completed according to the applicable permit terms, the Planning Division Manager may, for good cause shown, grant an extension of up to one year for such completion. The Board may, for good cause shown, grant an additional extension for such completion and production. If one well is not completed and production is not initiated within the time allowed under the original permit or any extension granted, a new application is required and the facility may be constructed, completed or produced only in compliance with the Land Development Code in effect at the time of a new application.
- f. Permits Required Prior to Commencement of Operations**
- i. If applicable, an Access Permit, Grading Erosion and Sediment Control (GESC) Permit, and Oversize/Overweight Vehicle Permit shall be required prior to the development of an Oil and Gas Facility. A Floodplain Development Permit shall be required prior to any work within a floodplain. A Building Permit may be required prior to construction of certain structures within the Energy Facility.
- 8. Appeal of Decision on Application for Administrative Use by Special Review**
- a. An applicant may appeal the Public Works and Development Director's denial of an application for an Administrative Use by Special Review for an Oil and Gas Facility, denial of a waiver request, or any conditions of approval, to the Board of County Commissioners for a *de novo* hearing. The applicant must file the appeal within fourteen (14) calendar days of the date of the Director's decision by submitting a letter of appeal to the Planning Division Manager. Thereafter, the matter will be scheduled on the next available agenda of the Board. At such hearing, the Board may affirm, reverse or modify the decision of the PWD Director, based upon the criteria set forth in Section 5-3.6.
- 9. Administrative Amendment**
- a. If the applicant or operator proposes changes from the plans approved through the Administrative Use by Special Review, including and not limited to any changes in the source or location of water to be used by the Oil and Gas Facility, the equipment on the facility or visual mitigation measures, the applicant or operator is required to submit an amendment to the application showing the changes, unless such requirement has been waived by the PWD Director. The proposed amendment will be reviewed by PWD staff and, if applicable, PWD Staff may require additional information. The amended application will need to meet all requirements of this Section and be approved in writing by the Public Works and Development Director, or the Board (if the Board approved the original application or if the Director

exercises his or her discretion to refer the amendment to the Board), prior to implementation.

10. Transfer/Sale of Facilities to a New Operator

Operator shall notify the Planning Division at least 30 days prior to transferring facilities to a different operator. Prior to the transfer, the new operator must provide the following to the County:

- a. Proof of Environmental Liability Insurance as specified below in 5-3.6.D.12.c.
- b. Proof of Performance Bond for plugging and abandonment as specified above in 5-3.6.D.12.c.
- c. Designation of County as a beneficiary or party on all financial assurance.
- d. Letter authorizing transfer to different operator.
- e. Meeting with Operator and County to discuss further or immediate development and any plans for pipeline installation.

11. Non-Administrative Approval Process

Use by Special Review approval for an Oil and Gas Facility may also be requested through the process described in Section 5-3.6 of this Code, subject to the following modifications:

a. Plan Format

The site plan shall comply with the requirements of the Development Application Manual, Non-Administrative Use by Special Review for Energy Facilities. In addition, the final document shall be submitted in both paper and electronic forms instead of Mylar, notwithstanding the requirements for a Use by Special Review contained in the Development Application Manual.

b. Expiration of Approval

An approval of a Use by Special Review shall be valid for three (3) years after the date of recordation, unless facility well pad is already substantially commenced by completion and production of at least one well or a compressor is installed at a compressor station. Operator can apply for a waiver to the termination deadline. Waivers of termination deadlines will be approved or rejected on a case-by-case basis. The Planning Division Manager or designee or the Board may grant an extension as described in Section 5-3.6.D.7.e above

c. COGCC and County Approvals Required

Development of the Oil and Gas Facility shall not commence until and unless any required permits from the State or County, and a Use by Special Review (administrative or non-administrative) from the County, have both been approved. Prior to construction, the operator must submit proof of financial assurance required by these rules.

12. Other Requirements Prior to Commencement of Operations

- a. If applicable, an Access Permit, GESCC Permit, and Oversize/Overweight Vehicle Permit shall be required prior to the development of an Energy Facility. A Floodplain Development Permit shall be required prior to any work within a floodplain. A Building Permit may be required prior to construction of certain structures within the Energy Facility.

- b.** Development of the Energy Facility shall not commence until and unless any required permits from the state or County, and either a Use by Special Review or administrative Use by Special Review, have been approved by the County.
- c.** Environmental Insurance and Finance Assurance Requirements

 - i. Development of an Energy Facility shall not commence until an operator provides proof of Environment Liability Insurance in the minimum amount of \$5,000,000 per pollution incident to cover costs associated with gradual and sudden pollution events, environmental remediation and disposal of wastes associated with remediation. The environmental liability insurance shall provide coverage for bodily injury, property damage or environmental damage per pollution incident. Coverage shall include claims arising during transportation and at non-owned waste disposal sites. Should this insurance be on a claims-made basis, the retroactive date must precede the date field activities were initiated.
 - ii. Development of an Energy Facility shall not commence until an operator has obtained a performance bond naming Arapahoe County as the beneficiary or obligee to guarantee the cost of plugging and abandonment of the well site. Operator shall provide a performance bond in the amount of \$50,000 per well for plugging and abandonment of all wells proposed for a well pad and the associated equipment and infrastructure, or provide a blanket field-wide bond in the amount of \$10,000,000, to cover plugging and abandonment of all of Operator's wells and the associated equipment and infrastructure in unincorporated areas of Arapahoe County. An individual bond or a blanket bond will be held until the facility, or all of Operator's facilities, respectively, are closed or until the facility/facilities are transferred to another operator. When the ownership of any facility transfers to another operator, the new Operator shall immediately provide a performance bond equal to the former Operator's performance bond.
 - iii. Additional Financial Assurance/Insurance Measures required prior to the commencement of operations at an Energy Facility:

 - (a) Operator shall require its contractors and all subcontractors to carry the types of coverage and in the minimum amounts in accordance with the requirements in this section.
 - (b) If Operator's coverage lapses, is canceled or otherwise not in force, the County reserves the right to obtain sufficient insurance and charge all costs and associated expenses to Operator, which shall become due and payable immediately.
 - (c) The County shall be named as an additional insured on all policies and bonds so that if coverage lapses or is cancelled, the County is notified immediately.
 - (d) All policies shall be endorsed such that they cannot be canceled or non-renewed without at least 30 days' advanced written notice to the Operator and the County.
 - (e) Deductibles or retentions shall be the responsibility of Operator. Deductibles or retentions must be listed on the certificate of insurance required herein and are subject to the reasonable approval of the County

E. Definitions

Setback – The required minimum horizontal distance between the location of structures or uses and the related front, side, or rear lot line measured perpendicular to such lot line:

Front setback – a setback extending across the full width of the lot measured perpendicular to the front lot line;

Rear setback – a setback extending across the full width of the lot measured perpendicular to the rear lot line;

Side setback – a setback extending the full length of the side lot line measured perpendicular to the side lot line. The side setback typically overlaps with the front or rear setback.

Reverse/Reciprocal setback – a setback from an oil and gas facility measured from the nearest edge of a well pad to the nearest edge of a structure proposed to be erected or built within proximity to the oil and gas facility.