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Dallas Schroeder Recorder, Elbert County, Co

STATE OF COLORADO }
} ss
COUNTY OF ELBERT }

At a regular meeting of the Board of County Commissioners for Elbert County, State of Colorado, held at the Courthouse in Kiowa on Wednesday, the 12th day of February 2014 A.D., there were present:

Kurt Schlegel	Commissioner Chairman
Robert Rowland	Commissioner Vice Chairman
Larry Ross	Commissioner
Sheryl Caldwell	Deputy, Clerk to the Board

When the following proceedings, among others were had and done, to wit:

APPROVE
RESOLUTION 14

APPROVAL OF AMENDMENT TO ELBERT COUNTY ZONING REGULATIONS FOR THE PROVISION OF ADMINISTRATIVE REVIEW AND MOU PROCESS FOR MINOR OIL AND GAS OPERATIONS AND RELATED FACILITIES

WHEREAS, the Elbert County Community and Development Services has submitted proposed amendment to be included in the Elbert County Zoning Regulations which would provide for an administrative review and memorandum of understanding (MOU) process of minor oil and gas operations and related facilities in Elbert County; and

WHEREAS, on January 2, 2014, the Elbert County Planning Commission held a public hearing regarding the proposed amendment to be included in the Elbert County Zoning Regulations which would provide for an administrative review and memorandum of understanding (MOU) process of minor oil and gas operations and related facilities in Elbert County. At the hearing, Elbert County Community and Development Services and members of the public were present. Presentations were made by Elbert County Staff and public comment was solicited and received; and

WHEREAS, the Elbert County Planning Commission voted 8 – 0 to approve the proposed amendment to be included in the Elbert County Zoning Regulations which would provide for an administrative review and memorandum of understanding (MOU) process of minor oil and gas operations and related facilities in Elbert County and to forward that recommendation the Board of County Commissioners; and

WHEREAS, on February 12, 2014, the Board of County Commissioners held a public meeting on the proposed amendment to be included in the Elbert County Zoning Regulations which would provide for an administrative review and memorandum of understanding (MOU) process of minor oil and gas operations and related facilities in Elbert County; and

WHEREAS, the Board of County Commissioners, having found that this hearing was properly noticed, and having reviewed the recommendations of the Planning Commission, and having reviewed the documentation of Community & Development Services, and listened to the presentation of staff, and having listened to all public comment, and being fully advised in the premise.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF ELBERT as follows:

a. That the Board of County Commissioners hereby approves and adopts the following addition to the Elbert County Zoning Regulations, as specifically set forth herein, as recommended for approval by the Elbert County Planning Commission and as amended by the Board of County Commissioners during the February 12, 2014 public meeting.

b. That Part II of the Elbert County Zoning Regulations shall be amended to include the addition of Section 27, Administrative Review and MOU Process of Minor Oil and Gas Operations and Related Facilities in Elbert County, as attached hereto as Exhibit A.

c. The implementation of the newly adopted Part II, Section 27 of the Elbert County Zoning Regulations is effective February 12, 2014.

Upon a motion duly made and seconded, the foregoing resolution was adopted by the following vote:

Kurt C Schlegel _____ **AYE**
KURT SCHLEGEL, CHAIRMAN

_____ **AYE**
ROBERT ROWLAND, VICE CHAIR

_____ ~~**AYE**~~ ABSENT
LARRY ROSS, COMMISSIONER

ATTEST: DALLAS SCHROEDER
COUNTY CLERK

BY: Sheryl B Caldwell
DEPUTY, CLERK TO THE BOARD

ELBERT COUNTY SEAL ORG FEB 13, 1874 COLORADO

EXHIBIT A

Part II, Section 27: **Administrative Review and MOU Process for Minor Oil and Gas Operations and Related Facilities**

SECTION 27.1

A. INTENT

This Section is intended to establish an Administrative Review process for certain Oil and Gas Operations and related Facilities. The Administrative Special Use by Review is to allow for the Administrative Review of certain land uses that are not otherwise provided for within these Zoning Regulations. This Section is intended to facilitate the development of Oil and Gas Operations and Facilities, mitigate potential conflicts between existing and planned land uses, and to protect and promote the health, safety and general welfare of Elbert County residents.

B. APPLICABILITY

This Section shall apply to lands within the unincorporated area of Elbert County.

C. VIOLATIONS

It shall be unlawful to construct, install, or cause to be constructed or installed (including site grading), any Minor Oil and Gas Facility within the unincorporated portions of Elbert County without first obtaining an Elbert County Oil and Gas Permit.

D. AUTHORITY

This section is adopted pursuant to C.R.S. §§ 29-20-11 et seq. and 30-28-101 et seq. This Section is not intended to supersede state laws, regulations, and rules pertaining to oil and gas development, but is meant to supplement those requirements where appropriate.

E. PRE-EXISTING OIL AND GAS OPERATIONS.

A Pre-Existing Oil and Gas Operation which was legally established prior to the effective date of this Section shall continue, so long as the Operations otherwise remain in compliance with applicable permit requirements.

Nothing contained in this Section shall be construed to require the closure or abandonment of any Pre-Existing Oil and Gas Operation currently operating under an approved COGCC permit prior to the effective date of this Section.

1. Extension, Expansion and Alteration of Pre-Existing Operations. Pre-Existing Operations shall only be extended or altered in a manner that decreases or does not expand the Pre-Existing Operation's use.

a. Extension or Expansion onto Land Outside the Originally Established Area (the area originally impacted by the development). Any extension or expansion of a Pre-Existing Operation onto land outside the Originally Established Area of operations shall comply with the requirements of this Section and may require a new permit, an MOU or a Special Use by review.

b. The Addition of Production Equipment. Any addition of Production Equipment at a well location or permanent facilities such as pumping units or well head compressors, or other minor equipment changes, are allowed, provided the Operator complies all with all Colorado Oil and Gas Conservation Commission (COGCC) Rules including, but not limited to, Rules 802 and 604.c(2)(A) concerning noise, Rule 803 concerning lighting, all visual screening and visual mitigation shall comply with Rule 804.

2. Relocation of Previously Existing Operations. A Pre-Existing Operation shall not be moved, in whole or in part, unless the relocation brings the Operation into compliance with this Section.

3. Damage or Destruction. A Pre-Existing Operation damaged or destroyed by an Act of God or through any manner not willfully accomplished by or for the owner may be restored to the same condition prior to the damage or destruction. Restoration of the Operation shall be contingent upon the following:

   a. The owner has acquired the necessary permits required for construction and for operation of the restored Operation.

   b. The restoration must be complete 12 months following the damage or destruction or a new permit, MOU or Special Use by Review shall be required. However, an extension to complete the restoration beyond the 12 month period may be requested through CDS and subject to BOCC approval.

4. Equipment, weeds, waste, and trash requirements of Pre-Existing Operations. All locations, including wells and surface Oil and Gas Operations, shall be kept free of the following: equipment, vehicles, and supplies not necessary for use on the site; weeds; rubbish, and other waste material. All associated equipment must be kept in good order and repair in accordance with Colorado Oil and Gas Conservation Commission (COGCC) visual mitigation requirements, and Colorado Department of Public Health and Environment (CDPHE) regulations.

F. COMPLAINTS

Any complaints filed with Elbert County in response to the addition of production equipment will be investigated by CDS personnel or designee. Any complaints filed with COGCC shall be investigated by the COGCC designated inspector and shall be reported to the County Local Government Designee (LGD).

G. RIGHT TO ENTER

Elbert County Community and Development Services (CDS) personnel, the Elbert County Engineer, the Elbert County Office of Emergency Management (OEM) personnel and the local fire protection district personnel having jurisdiction are authorized by this Section to enter and inspect a property for compliance with this Section. All persons authorized to enter a property shall be equipped with all Personal Protection Equipment (PPE) that is required by the Operator and comply with Operator's customary safety rules. Inspections shall require 24 hours advanced notice to the Operator prior to an inspection and shall occur during normal business hours. However, in the event of an imminent threat to public health or safety or to the environment, attempts shall be made to contact Operator; if Operator is unreachable entry may be made without notice to the Operator. If entry is denied, the County shall have the authority to discontinue application processing, revoke approved Elbert County permits and applications, or to obtain an order from a court of competent jurisdiction to obtain entry.

H. PERMIT EXPIRATION

Any approval issued pursuant to this Section shall expire if construction of the facility or modification has not commenced within two (2) years of final County approval. Extensions of time may be granted by the BOCC for good cause shown and for unforeseen hardship not imposed by the extension applicant or Operator. If an extension is not granted, a new permit application will be required. The BOCC will consider the extension at the next available scheduled public meeting date.

I. WAIVERS

The Board of County Commissioners (BOCC) may grant a waiver for one or more of the requirements of this Section. A waiver shall only be granted for good cause shown by the Applicant seeking such waiver. All waiver requests shall be submitted in writing to the CDS Director. Waiver requests shall only be granted upon a sufficient showing that strict compliance with the requirements of this Section would result in peculiar, exceptional or undue hardship on the Applicant due to unusual topographical or physical conditions of the property which make implementation of the requirements of this Section exceptionally or peculiarly difficult and that no substantial determent to the public's health, safety and welfare be caused thereby. No waiver shall be granted if the request is determined to be based upon a self-imposed hardship. The BOCC will consider the waiver request at the next available scheduled public hearing date.

J. WITHDRAWAL OF AN APPLICATION

A request to withdraw an application shall be submitted, in writing, to CDS. The withdrawal of the application shall preclude reactivation. There will be no refund of application fees and/or professional review fees. The submittal of a new application and processing fee will be required in order to pursue a proposed facility that has been

previously withdrawn. An application shall be considered withdrawn if the Applicant fails to respond to a request by Elbert County for information or clarification within forty-five (45) days of such request.

K. LOCAL GOVERNMENT DESIGNEE

COGCC Rules allow local governments to designate a Local Government Designee (LGD), who will be notified by the COGCC of all oil and gas activity within the jurisdiction and will be provided information regarding such activities. The LGD for Elbert County shall be designated by the Elbert County Board of County Commissioners. Such designee shall attend available COGCC training for LGDs. The Elbert County LGD shall carry out all functions as authorized by COGCC regulations.

SECTION 27.2 SPECIAL USE REVIEW PERMIT APPLICATIONS vs. MOU PROCESS

Approval of a Use by Special Review, pursuant to Part II - Section 17 of these regulations, is required for all Major Oil and Gas Operations. A Minor Oil and Gas Facility may pursue a permit through either the Use by Special Review in accordance with Part II, Section 17 of these regulations or may apply for a permit through an Administrative Use by Review and MOU.

SECTION 27.3 MINOR AND MAJOR FACILITY DEFINED

A. Minor Oil and Gas Facility

1. A Minor Oil and Gas Facility includes the following:

    a. Well pad with 1 or more wells; intermediate lines from the wellhead, storage tanks, separators, or tank batteries;

    b. Gathering lines as defined in this Section;

    c. Flowlines as defined in this Section;

    d. Ancillary equipment including, but not limited to: buildings, structures, and improvements associated with or required for the operation of a well site, pipeline, or compressor facility. Ancillary facilities include but are not limited to, well pads, tank batteries, combustion equipment and pits and excluding gathering lines;

    e. Temporary storage and construction staging yards in place for less than 12 months;

    f. Non-commercial field injection or disposal well that does not meet the definition of a Major Facility; and

g. Fresh water storage and distribution systems.

2. Any conversion of an existing oil and gas well to a Non-Commercial water disposal well in an existing facility shall require a new application.

B. Major Oil and Gas Facility Defined

1. A Major Oil and Gas Facility includes, but is not limited to, the following:

a. Any facility that consolidates, markets or transports production oil or gas or production fluids from one or more Minor Oil and Gas Facilities;

b. Any water treatment, water recycling, or open storage pit to manage flowback and Produced Water;

c. Storage and construction staging yards in place for longer than 12 months;

d. Worker camps and related temporary living facilities for oil and gas crew members;

e. Any oil and gas facility that does not meet the definition of a Minor Oil and Gas Facility;

f. Export or sales pipelines used to transfer oil or gas to 3rd party transportation;

g. Storage terminals; and

h. Use of an injection well for Commercial Disposal.

2. Upon the written request by an Operator, a Major Facility application may be treated as a Minor Facility provided the proposed Major Facility impacts are of short duration and such impacts are quantifiable. An evaluation meeting shall be scheduled no later than ten (10) days following the County's receipt of the Operator's written request. Requests shall be submitted to CDS. The evaluation meeting is to include the Operator, CDS Director, County Engineer, County staff and other affected agencies. A written report following the evaluation meeting shall be prepared and submitted to the Board of County Commissioners for approval.

SECTION 27.4 MEMORANDUM OF UNDERSTANDING INTENT

There will be a Standard Memorandum of Understanding (MOU) presented to Operators. It is Elbert County's preference to enter into an MOU with oil and gas operators proposing a Minor Oil and Gas Facility. No MOU shall be effective unless approved by

the BOCC. The standard MOU shall identify provisions that constitute best management practices (BMPs) to be incorporated into State permit form 2A by the applicant prior to issuance of the County permit.

SECTION 27.5 ADMINISTRATIVE REVIEW PROCESS AND MOU FOR MINOR OIL AND GAS FACILITY

A. The applicant shall schedule an initial meeting with CDS to discuss the Administrative Review Process and MOU versus the Use by Special Review process for oil and gas permitting in Elbert County and to obtain copies of:

1. The Oil & Gas Development Permit Application Form;
2. The Standard MOU;
3. The Elbert County Master Road Use Agreement (MRUA);
4. The Fire Protection and Safety Agreement (FPSA);
5. Pre-Application Meeting check-list; and
6. The estimated fees associated with oil and gas permitting.

B. Pre-Application Meeting

Once the Applicant has submitted all items required for a Pre-Application Meeting and paid pre-submittal fee to CDS, as set forth in these regulations Part I, Section 8, CDS shall review the Pre-Application items within five (5) business days of submission. CDS shall schedule the pre-application meeting to be held within ten (10) business days of payment and submission or as soon as possible thereafter. The Applicant, CDS staff and other appropriate County agencies (including, but not limited to, local fire district, Elbert County Public Health, the Elbert County Engineer) shall meet to discuss:

1. The proposed facility and the MOU;
2. Proposed haul routes;
3. The Elbert County Master Road Use Agreement (MRUA);
4. The Fire Protection and Safety Agreement (FPSA);
5. Anticipated development timeline;
6. The checklist of items required for the formal submission of the Application and

7. Estimated fees and any additional expenses related to the application review; and processing.

Following the Pre-Application Meeting, CDS will prepare copies of the MOU, the FPSA and the MRUA and notes from the Pre-Application Meeting for the Applicant. It is the Applicant's responsibility to coordinate with the Elbert County Public Works Department to finalize the MRUA and the local fire protection district to finalize the FPSA.

C. Application and Required Submittal Items

The completed Oil & Gas Development Permit Application form, appropriate fees, and items required from the checklist generated at the Pre-Application Meeting shall be reviewed for completeness within five (5) Elbert County Business Days of receipt by CDS. A complete Application shall include all Submittal Requirements and any additional elements as determined in the pre-application meeting. All application elements shall also be provided to CDS in PDF format on a CD/DVD or flash drive. The Applicant is responsible for sending a certified letter of notification to surrounding property owners in accordance with COGCC regulations.

D. Submittal Requirements

Where submittal requirements are identical or are substantially duplicative of submittal requirements of the COGCC or other agencies, the applicants may be permitted, at the discretion of the CDS Director, to submit those forms and/or documents to satisfy these requirements. A complete application for an Administrative Use by Special Review application must contain the following:

1. Letter of Intent requesting the Administrative Use by Special Review and MOU application process for oil and gas in Elbert County. The Letter of Intent shall fully describe the intended use of the property must be signed by the property owner or authorized representative. A copy of the property owner's deed must be included in the submittal. If applicant is not the property owner then a notarized letter of authority must be included from the property owner.

2. A narrative, operational plan and site plan prepared by a qualified professional in accordance with the requirements for application.

3. A fee shall be paid to CDS according to the CDS Fee Schedule pursuant to Part I, Section 8 of these Regulations (Check made payable to Elbert County).

4. A Drainage Report produced by a Colorado Registered Professional Engineer, if required, for the Administrative Special Use as determined by CDS and the County Engineer. This requirement may be waived by Elbert County Public Works the County Engineer.

5. Traffic Report/Study conforming to the requirements as set forth by Elbert County Public Works and the Elbert County Engineer.

6. A fully executed and notarized MRUA with Elbert County.

7. Cost estimate of public improvements, if any, such as sidewalks, roadway and/or drainage improvements, etc., if required, as determined by CDS, Public Works and the County Engineer.

8. An appropriate number of 11" x 17" reductions of the site plan as determined by CDS.

9. Letter from the appropriate water and sanitation districts stating the availability to serve the proposal. If subject property is not serviced by a water and sanitation district then proof of sufficient, allowable water as per the Colorado Division of Resources and acceptable sanitary system/facilities as outlined by Elbert County Health and Environment and/or CDPHE and the County Engineer.

10. Type or method of fire protection with input from applicable fire jurisdiction and an FPSA.

11. Noxious Weed Management Plan.

12. Dust Mitigation Plan detailing how the operator intends to control fugitive dust.

13. Facility Close Out Plan.

14. Material Handling & Spill Prevention Plan.

15. Waste Management Plan.

16. Oil & Gas Operations Plan.

17. Visual and Noise Mitigation Plan.

18. Additional information may be requested by CDS as appropriate and information required above may be waived by the CDS Director if it is deemed to be inappropriate to the request.

E. Exhibit requirements

The Administrative Use by Special Review Plan shall be on 24" x 36" paper. The drawing shall be in upper case sans serif with a minimum 12-point font unless otherwise approved by the CDS Director or designee and contain the following information:

1. Project name, type of proposal (Administrative Use by Special Review for Oil and Gas Operations), legal description of the Plan's land area, date of the drawing, scale and north arrow.

2. Vicinity map with north arrow (scale of 1" = 2,000' preferred) with an emphasis on the major roadway network within one (1) mile of the proposal.

3. The existing zoning of the property, as well as the zoning and residential density of all adjacent properties.

4. The graphic location, dimensions, maximum heights and gross impact area of all existing and proposed structure(s) and grading/work yard area.

5. Existing and proposed finished grade topography at two foot (2') contours or less, tied to a datum acceptable to the County.

6. All proposed curb cut and driveway locations and dimensions, access points to public roads, off-street parking locations, and types of surfacing, such as asphalt paving, gravel, etc.

7. Public and private utility service lines and/or main lines with appurtenances.

8. All walks, open and recreation areas, with a description of these improvements.

9. Location of outdoor trash receptacle systems or location of waste receptacles.

10. Provision for access by emergency vehicles.

11. Location and dimensions of all existing access points on immediately adjacent properties and access points onto County roads.

12. Location and dimension and surface treatment of drainage easements, volume capacity of all drainage ponds, and the size of the outlet restrictor(s).

13. An illustrative landscape plan showing locations and general types of all proposed landscaping materials, including fences, walls, planters and any other landscaping or screening features.

14. A Signage Plan describing and illustrating the size, location, type and material of all signs if applicable.

15. Location, type and height of lighting devices.

16. Representative architectural elevation plans of all sides of proposed structures which show building heights, colors and general textures of materials to be used on the exterior of the proposed structures.

17. Board of County Commissioners signature block.

18. Applicant signature block.

19. Additional requirements may be required or waived at the discretion of the CDS Director.

F. Processing of Administrative Applications for Oil and Gas Facilities

1. The final decision on the completeness of the application shall be based upon a determination by the CDS Director that all necessary information has been received and submittal requirements have been met. When these requirements have been met, the application shall be considered Accepted and the applicant will be notified by letter and email.

2. Within five (5) working days of acceptance, CDS shall submit the Accepted application and MOU to the BOCC for their review and approval of the accompanying MOU. The BOCC will consider the MOU at the next available scheduled public hearing date.

3. The Planning Commission may request a presentation of an operator's first Administrative Use application.

4. The CDS Director or his/her designee(s) shall issue the Elbert County Oil and Gas Permit within five (5) business days of the approval of the MOU by the BOCC.

   a. The CDS Director with input from other agencies, is authorized to elevate any administrative applications for consideration as a Special Use application as per Part II, Section 17 of these regulations for review by the Planning Commission and for final action by the BOCC. An appeal of any decision made by the CDS Director to elevate an application to public hearing and review shall be heard by the Board of County Commissioners.

   b. An appeal of a final action by the BOCC on any applications for oil and/or gas operations shall be to the Elbert County District Court.

5. Upon final approval of the Application and the MOU by the BOCC the Applicant shall produce two exhibits on photographic mylar or equivalent (prepared such that the text/line work does not bleed, flake, or scratch off) on 24" x 36" single/double matte mylar. The Applicant shall record the MOU, the Operational Plan and the mylar copies with the Elbert County Clerk and Recorder within thirty (30) days of approval.

SECTION 27.6 PREVIOUSLY EXECUTED MOUs

Once an MOU has been executed by the parties, the MOU shall apply to all subsequent Minor Oil and Gas Facilities of the Operator within Elbert County. However, any site-specific amendments to the MOU shall only apply to the site for which such site specific amendments were granted.

An executed MOU may be amended by the parties when there is a demonstrated need to accommodate site-specific circumstance. All amendments to an MOU must be submitted to CDS and approved by the BOCC.

An amended MOU is for a specific project or location and does not invalidate or modify any other MOU executed by the operator. Requests to amend an approved MOU shall be presented to CDS for review by the BOCC at the earliest possible regularly scheduled BOCC meeting.

SECTION 27.7 MODIFICATIONS

Modifications to an approved Minor Oil and/or Gas Facility that would lead to a significant increase in noise associated with the facility's operations, change the visual impact of the facility, or, for a period greater than six (6) months, impinge upon a surface area beyond that originally impacted by the Facility shall require the submittal of a new permit application. Modifications of such facilities that do not have such impacts do not require a new permit application but must be reviewed and approved by CDS.

SECTION 27.8 ROUTINE MAINTENANCE

Normal or routine maintenance of a Facility will not subject a Facility to additional permits or criteria. "Normal or routine maintenance" does not include any modification of the Facility that would lead to a significant increase in noise associated with the Facility's operations, change the visual impact of the Facility, or, for a period greater than six (6) months, impinge upon a surface area beyond that originally impacted by the Facility.

SECTION 27.9 TRANSFER OF PERMIT

An Elbert County Oil and Gas Permit may be transferred only with written notice to Elbert County CDS within seven (7) calendar days of the State transfer and written notification to local fire district. Notices shall contain contact information for new permit holder. Operator understands that all agreements entered into with an application including but not limited to: an MOU, an MRUA, any Bonding Agreements and an FPSA shall be transferred/assigned with the permit to the new permit holder. All associated rights, liabilities and requirements shall be assigned to the new permit holder upon transfer.

SECTION 27.10 PERFORMANCE STANDARDS FOR ALL OIL AND GAS FACILITIES

Oil and Gas Facilities in Elbert County shall comply with the following performance standards in addition to those set forth in –any applicable MOU:

A. Transportation Impact Mitigation – The mitigation of traffic impacts shall include a plan for traffic control, on-going road maintenance, track mats, obtaining all necessary permits and improving or re-constructing County roads as necessary.

B. Traffic Impact Analysis – The Transportation Impact Analysis shall clearly identify the potential impacts to Elbert County roads and bridges pertaining to the Facility's construction, operation and traffic generation. Such analysis shall be prepared by a Colorado licensed transportation engineer in accordance with the Elbert County Construction Standards and Specifications Manual or other criteria as provided by the Elbert County Public Works Department and the County Engineer.

C. Traffic Control Plan – A Traffic Control Plan shall be prepared for each phase of construction activity where County roads and bridges will be utilized for the transportation of materials to the site for construction and on-going operations. The Traffic Control Plan shall include the following information:

1. Method for handling traffic;
2. Haul route plan and operations schedule;
3. Detour plan, if necessary; and
4. Existing road and bridge condition survey and photos.

D. Construction Drawings for Public Road Improvements – Should public road improvements be required to accommodate an Oil and Gas Facility, construction drawings prepared by a Colorado Registered Professional Engineer are required to be submitted and approved by the Elbert County Public Works Department and the County Engineer prior to the issuance of an Oil and Gas Development permit. All drawings shall be prepared in conformance with the Elbert County Construction Standards and Specification Manual. Adequate financial assurances shall be required for the construction or re-construction of all public roads or improvements. The following permits are typically required prior to construction of public improvements:

1. Construction Permit;
2. Right-of-Way Work Permit;
3. Erosion and Storm Water Quality Control Permit; and;

4. Roadway Use Permit for Overweight Vehicles.

E. Maintenance – the County shall require the Operator to provide on-going maintenance to correct road damage caused by the Operator's Oil and Gas Operations. On-going maintenance may include, but is not limited to, the following:

1. Graveling;

2. Improving shoulders and/or;

3. Paving as determined by the Traffic Impact Analysis.

F. Dust Control Measures – The Operator shall be responsible for dust mitigation during all phases of operational activity as stated in COGCC Rule 805.c. Operators shall employ practices for control of fugitive dust caused by their operations. Such practices shall include, but are not limited to, the use of speed restrictions, regular road maintenance, and restriction of construction activity during high-wind days. Additional management practices such as road surfacing, wind breaks and barriers, or automation of wells to reduce truck traffic may also be required if technologically feasible and economically reasonable to minimize fugitive dust emissions.

G. Site Access – An access permit issued by the Elbert County Public Works Department is required to access a property from a County Road. Access routes shall, to the extent feasible, minimize visual impact on the public, taking into account the needs of the surface owner. Should the access be from a State highway or municipal roadway, the Applicant shall secure an access permit from the appropriate entity. Access permits are revocable upon issuance of a stop work order or if other violations of the Elbert County Oil & Gas Development Permit occur. The permitting and construction of site accesses shall comply with the Elbert County Construction Standards and Specifications Manual.

H. Financial Assurance Required – The Transportation Impact Analysis, along with the associated construction drawings and a cost estimate prepared by a Colorado Registered Professional Engineer, shall determine the requirements/details of the Master Road Use Agreement with the County. Such Agreement shall be accompanied by a form of financial assurance acceptable to the County.

I. Groundwater Baseline Sampling and Monitoring – Groundwater baseline sampling and monitoring shall be performed by the Operator in accordance with COGCC Rules, Section 609 – Statewide Groundwater Baseline Sampling and Monitoring. The LGD for Elbert County will request from the COGCC that all analytical results and surveyed well locations be forwarded to the LGD. If the well owner grants permission , the LGD will post the COGCC well sampling results on the Elbert County website

J. Noxious Weed Management – Operators shall ensure compliance with the Colorado Noxious Weed Act C.R.S. § 35-5.5-101, *et seq.* Operators shall be responsible for on-going site and access road noxious weed control during construction and operation of the Facility. The selection of a re-seeding mix and the method(s) for appropriate weed control shall be determined through documented consultation with the property owner, the Natural Resources Conservation Service, Elbert County Public Works and the appropriate Conservation District, as applicable.

K. Setbacks – At minimum, setbacks shall conform to COGCC regulation. Setbacks greater than state minimums may be agreed upon in the MOU.

SECTION 27.11 FALSE OR INACCURATE INFORMATION

The BOCC may revoke approval of an Administrative Use Permit for an Oil and Gas Operation if false misleading, deceptive, or inaccurate information was provided by the applicant/Operator. Prior to such action, the Applicant, CDS personnel, and the public shall be provided with an opportunity to be heard at a public meeting before the BOCC, at least ten (10) days after CDS provides written notice to the Applicant. If the BOCC then determines that the Applicant, its authorized representatives, or employees, knowingly or recklessly provided information or documentation upon which approval was based, that was false, misleading, deceptive, or inaccurate, the BOCC may revoke the Administrative Use Permit approval or impose additional conditions.

SECTION 27.12 OVER THE COUNTER PERMITS

A. Seismic Operations Permit.

Any entity proposing to conduct seismic testing must first acquire a Seismic Testing Permit from CDS. The following information is required to be submitted prior to the issuance of a permit:

1. An executed Master Road Use Agreement with Elbert County if deemed necessary by Elbert County Public Works;

2. An electronic copy of the map required by COGCC showing the location of proposed seismic activity as per COGCC Rule 333;

3. Payment of fee.

B. Recompletion Permit.

Any recompletion to a new production interval must first acquire a Recompletion Permit. The Applicant is responsible for notifying surrounding Surface Owners in accordance with COGCC Surface Owner Notification Rules 305.a. and 305.c. where applicable. The following information is required to be submitted prior to the issuance of a permit:

1. An executed Master Road Use Agreement with Elbert County;

2. A copy of the new Form 2 and, if required by COGCC, the new From 2A and Mechanical Integrity Test results (MITs) if any;

3. An approved state permit;

4. Payment of fee.

C. Re-Fracturing Permit.

Any entity proposing to conduct re-fracturing must first acquire a Re-Fracturing Permit from CDS. The following information is required to be submitted prior to the issuance of a permit:

1. An executed Master Road Use Agreement with Elbert County.

2. Operator shall forward copies of all state submissions including Form 42 - Notice of Notification, the new Form 5A – Completed Interval Report and all FracFocus information electronically to the LGD electronically when submitted to the COGCC.

SECTION 27.13 DEFINITIONS

The application of the following terms and associated definitions shall be limited to those applications submitted under this Section. These terms and definitions do not modify, alter or replace any other terms or definitions included within other sections of these Zoning Regulations and shall only apply to this Section.

Abandonment: The permanent abandonment of a well, based on the operator's filing of abandonment with the Colorado Oil and Gas Conservation Commission (COGCC). Presumption of permanent abandonment of a "Major Oil and Gas Facility" shall be based upon non-use or non-operation for eighteen months without notification to the Director of Community & Development Services of the intent to resume operations under specified conditions. All associated equipment shall be removed from the site.

Access Road: A road located on private property between the site on which an oil and gas Facility is located and the roadway serving such a Facility from a County road, constructed in accordance with the private road standards as specified in the Elbert County Standards and Specification Manual.

Applicant: A person, corporation or other legal entity possessing the legal right to develop the mineral resource or their Authorized Representative who applies for an Oil and Gas Development Permit from Elbert County.

Ancillary Equipment: The equipment, buildings, structures, and improvements associated with or required for the operation of a well site, pipeline, or compressor Facility.

Ancillary facilities: Include but are not limited to, well pads, tank batteries, combustion equipment and pits and excluding gathering lines.

Best Management Practices (BMP): Established techniques used in conducting mineral extraction operations which eliminate or minimize adverse impacts to public health, the environment, wildlife and cattle, landowners, and natural resources; which enhance the value of natural and landowner resources; and which reduce conflicts. BMPs are intended to promote the best practices or solutions in the conduct of operations.

Commercial Disposal Well (Facility): A facility whose primary objective is disposal of Class II waste from a third party for financial profit.

Elbert County Business Days: Monday through Thursday

Facility (Facilities): Oil and gas wellsites, flowlines, tank batteries, compressor stations, pits/ponds, below-grade tanks, dehydration units, vapor recovery units (VRUs), and associated roads.

Flowlines: 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 water lines, the water loading point, the point of discharge to a pit, the injection wellhead, or the permitted surface water discharge point.

Gathering lines: Pipeline and equipment described below that transports gas from a production Facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term "gathering line" includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines. (COGCC)

Hydraulic Fracturing: The process of using high pressure to pump sand laden gelled fluid into subsurface rock formations in order to improve flow of Oil and/or gas into a well bore.

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

Non-Commercial water disposal (injection): An injection well that serves only to dispose of fluids or gases from the surface and where the well operator(s) receive(s) no monetary gain or additional benefit beyond disposal.

Oil and Gas Operations: All activities associated with Oil and/or Gas Operations and/or an Oil and/or Gas Facility as defined in this section. Used interchangeably with Oil and Gas Facilities
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Oil and/or Gas Facilities: Equipment or improvements used or installed at any location for the exploration, production, withdrawal, gathering, treatment, or processing of oil and/or natural gas. (COGCC) This term is used interchangeably with Oil and Gas Facilities

Operator: Any person who exercises the right to control the conduct of oil and gas operations.

Produced Water: Water that exists in subsurface formations and is brought to the surface during oil and gas production, as defined by the U.S. Department of the Interior Bureau of Reclamation.

Production Equipment: Equipment used for storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

Re-Fracturing: The re-stimulation of an existing well through the use of hydraulic fracturing.

Re-Completion: An operation involving any of the following: (1) Deepening from one zone to another zone.(2) Completing well in an additional zone.(3) Plugging back from one zone to another zone.(4) Sidetracking to purposely change the location of the bottom of the well, but not including sidetracking for the sole purpose of bypassing obstructions in the borehole.(5) Conversion of a service well to an oil or gas well in a different zone.(6) Conversion of an oil or gas well to a service well in a different zone.

Seismic Operations: Activities associated with acquisition of seismic data including but not limited to surveying, shothole drilling, recording, shothole plugging and reclamation.

Surface owner: Any person(s) owning all or part of the surface of land upon which oil and gas operations are conducted, as shown by the tax records of the county in which the tract of land is situated, or any person with such rights under a recorded contract to purchase. (COGCC)

Wellhead: The equipment attached to the casing of an oil, gas, or injection well